

# dealing with your business debts

confidential, independent,  
free advice on debt and  
cashflow problems for people  
who are self-employed

**BUSINESS DEBTLINE**  
**0800 197 6026**  
**www.bdl.org.uk**

**SCOTLAND**



**BUSINESS  
DEBTLINE**

**Money  
Advice  
Trust**

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It is important to work through this pack step by step, following stages 1-8. However, this contents list will help you refer to the sections you need at a glance.

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# HOW TO USE THIS PACK

## WE'RE HERE TO HELP

Business Debtline is a free, confidential and independent helpline for people who have cashflow and debt problems.

The helpline is staffed Monday to Friday during business hours – a 24-hour answering service operates outside of these hours and when the lines are busy.

Business Debtline provides practical advice to callers via the telephone, supported by this free self-help pack, which is designed to help you manage your way through your financial difficulties.

Whilst there can never be any guarantee of success, we feel that if you follow the methodical approach outlined in this pack, you may stand a better chance of keeping your business going and dealing with your debts.

Nevertheless, Business Debtline and its advisers cannot be held responsible for any action that you may take, based on advice given in this pack.

## BUSINESS DEBTLINE WEBSITE

You may also want to visit the Business Debtline website at [www.bdl.org.uk](http://www.bdl.org.uk) where you can view and complete the business and household budget sheets for you to print off.

## CONFIDENTIALITY

To protect callers' confidentiality Business Debtline does not use British Telecom's 'caller display' equipment. This means we cannot see your number displayed on a screen when you ring. We also have a permanent block on the 'caller return' service. This means that, if we ring you back, the Business Debtline number will not be announced as the last number to ring you to anyone dialling '1471'. This is in case you don't want anyone to know we have contacted you.



### WARNING Itemised phone bills

Your phone bills to Business Debtline may be listed on an itemised phone bill. You need to bear this in mind if your call is in confidence and someone else may see your phone bill. If you are calling Business Debtline on a mobile phone some networks may not charge you for the call because you are ringing a helpline.

## WHAT THIS PACK COVERS

This pack gives you practical advice on dealing with your business and other debts.

### It shows:

- How to work out your **business and household budget** (a budget sheet comes with this pack). Use this to work out your income from the business and then fill in the household part of the budget. You can then use it to explain your situation to the people you owe money to (your creditors). Everyone wants you to pay their bill, but they don't stop to realise that you have other problems. Seeing your business and household budget may stop them all chasing you for money at the same time. It may also avoid you being forced into making promises you cannot keep
- How to decide which debts to deal with first – **your priority debts**
- How to make reasonable offers to repay your creditors
- How to cope with court procedures.

We have a number of specialist fact sheets covering domestic rent and mortgage arrears, trust deeds, debt recovery and bankruptcy. We regularly update and expand the literature that we produce and may have additional material available since producing this pack. This booklet is a general guide to dealing with business debts. If you'd like to discuss anything in more detail, **please phone us on the Freephone helpline number – 0800 197 6026.**



### WARNING Your credit rating

Some organisations will tell you it is possible to make reduced payments to your creditors without it affecting your credit rating. This is not usually the case. Most creditors will add to your credit reference file to show that you are behind with your payments even if they agree to your offer. You need to bear this in mind for the future. See the section 'Can I get credit again?' on page 36.



### WARNING Companies that charge for advice

You may come across companies who offer to sort out your debts on payment of a fee. Be very careful to look at what the company is promising to do for you before sending them any money. Some of these companies say they will get your creditors to write off part or all of your debts. Unless you have special circumstances this is unlikely to happen. They may also not give sufficient advice on dealing with your business debts and only assist with personal debts. Our service is completely free, **phone us for advice.**

## GOLDEN RULES

- **Don't ignore the problem.** It won't go away and the longer you leave it the worse it gets.
- **Don't borrow money to pay off your debts** without thinking carefully, especially if the loan is to be secured against your home or business premises.
- **Check your credit agreement to see if you have payment protection insurance**, which may cover you in the event of being out of work due to illness or redundancy.
- **Check that you are claiming all the benefits and tax credits you can.** See 'Increasing your income' on page 9.
- **Use this self-help pack to help work out your business and household budget.** Make sure you show it to your creditors when you contact them. Get advice first.
- **Make sure you tackle your priority debts first.** For example debts which could close your business down or which could mean you losing your home, or having essential services cut off, such as gas, electricity and water.
- **Get in touch with your creditors** straight away and explain your difficulties. Go and see them, phone or write to them. You can use the example letter on page 31.
- **Use this self-help pack to help work out a reasonable offer to repay** the money owed. Don't worry if it appears very small if that is really all you can afford. Creditors prefer you to pay a small amount regularly than make an arrangement you cannot keep to.
- **Contact everyone you owe money to.** If you make arrangements to pay a reduced amount to some creditors but not others, you could run into difficulties again.
- **If the first person you speak to is unhelpful**, ask to speak to somebody more senior who may be able to agree to what you want.
- **Don't give up trying to reach an agreement** even if creditors are difficult.
- **Fill in the reply forms to court papers** and let the court have all the facts. You can attach a copy of your budget sheet. Always follow the instructions on the court papers, especially about where to return them.
- **Always attend court hearings.** Take a copy of your budget sheet with you. Don't think that going to the sheriff court makes you a criminal; it's not that kind of court.
- **Always keep copies of any letters** you send or receive, and make a record of telephone conversations in a diary or notebook for future reference.

## REMEMBER

We are always here to help with letters and forms, and we can explain what to do if you are asked to go to court. **Phone us for advice.**

# WORKING OUT A BUSINESS BUDGET

This section explains how to work out what is coming in and going out of your business to see what income you are bringing in to your household.

## WHY IS IT IMPORTANT TO WORK OUT MY BUSINESS BUDGET?

Because it helps you to:

- See how much money is coming in to the business
- See how much money is going out on business costs
- Work out roughly how much tax and VAT you will have to pay, which should be put aside so that you can afford to pay the demands when they fall due. There is a fact sheet enclosed to help you work this out
- Plan your **household budget** on what you can **really afford** to draw from the business each month, whilst ensuring that you have enough money to cover essential living costs
- Work out how much you have to pay all your creditors and the courts
- Plan your future spending on the business and your home.

This pack will help you to collect the facts you need to fill the budget sheet in completely and accurately.

By way of an example, on page 14 we have used a budget for a retailer who is married and uses a van only for business. Of course, your situation and figures will be different, as this is a guide to show you how the process works.

As you work through each section you will be able to complete the draft business and household pull-out sheet at the centre of this pack. You can then use the master copy (see page 45) to copy and send to your creditors.

If you are a director of a limited company, then you should keep the business budget separate from your household budget.

You should still complete the household budget as it may allow you to reduce the salary level you are drawing from the company in order to keep it solvent and increase its ability to pay creditors, but only if you can afford to do so whilst still having enough money to cover your essential living costs. It is particularly important to complete and use both budgets where there are personal guarantees.

If you have problems working out your business and household budget, or any other questions, **phone us for advice.**

## STAGES 1-3: BUSINESS BUDGET

**STAGE 1: Income**

**STAGE 2: Costs**

**STAGE 3: Drawings**

Now turn to the centre pages of this pack where you will find the pull-out draft business and household budget sheet.

Carefully detach this from the pack, this will be your working copy and we suggest that you use a pencil when completing this so that any errors can be easily corrected.

Further copies are available, free of charge from Business Debtline – **please phone us if these are needed.**

## WEEKLY OR MONTHLY?

We suggest that you fill in your budget sheet on a monthly basis. However, if it is easier for you, amend monthly to weekly on the budget sheet.

**It is important that you don't mix monthly and weekly figures on the same budget sheet.**

**To convert weekly figures to monthly**

Weekly figure x 52 (weeks) divided by 12 (months).

**To convert monthly figures to weekly**

Monthly figure x 12 (months) divided by 52 (weeks).

## STAGE 1: INCOME

**Average receipts per month:**

Use your books and bank statements to work out how much money you have taken for sales over the last three months. It is best not to include money for things that you have sold but have not yet been paid for. Only include money you have actually received.

Divide by three to get an average for the month. If your receipts vary widely over the year, it may be necessary to calculate the average over a longer period.

## STAGE 2: COSTS

These are **all** the costs of running your business. The list on the business budget gives you an idea of the items that you should include.

## Fixed costs

Some costs are fixed – that is, they will be the same amount each month. Put them on your budget first to begin to find out how much it costs to run your business for a month.

If you pay **business rent** quarterly, divide the amount by 3 to get a monthly figure or 13 to get a weekly figure. You may find it easier to budget by paying monthly – ask your landlord or the agent, otherwise put this amount aside for when you need to pay the quarterly bill. **Business rates** are fixed annually – ask your council if you can pay over 12 months to help you budget.

**Business water charges** are also fixed annually. If your water is metered, the cost may be variable, depending upon your usage, and you should take an average of your most recent bills. Again, ask if you can pay over 12 months.

**Business loan** repayments are usually fixed. However, if you are borrowing on a variable rate, repayments may change with changes in the bank interest rate.

## Variable costs

Other costs may vary according to how much trade you have done. These are called variable costs and may include **stock and employee wages – do not include your own drawings at this stage.**

Use your receipts, books and bank statements to work out how much these items have cost over the same three months as the sales figure you worked out earlier, and divide by 3 to convert to monthly or 13 to convert to weekly.

**Gas, electricity, metered water and telephone bills** are often issued quarterly. Add up the last four quarterly bills and divide by 12 to get a monthly figure or 52 if you are working on weekly figures in your budget. You may find it easier to budget by paying monthly – phone the company to see what can be arranged.

If you use a **vehicle** solely for your business, all the costs can be put in here, such as road tax, insurance, repairs/servicing and petrol. However, if you use your vehicle for both business and social purposes, you will have to divide the costs between your business budget and your household budget in proportion. Petrol for journeys to and from your home and business premises should be included under household.

Convert the annual **transport** costs by dividing by 12 for monthly and 52 for weekly. Remember to use this figure to put money aside for tax, insurance, repairs/servicing etc. to give you a better chance of affording the ongoing cost of running the vehicle.

## VAT

**Refer to the enclosed tax sheet for the current rate.**

If your business does not have annual sales over the **registration level** quoted on the **tax sheet**, you do not need to be registered for VAT. If you are already registered for VAT then to de-register, you will need to demonstrate that your turnover will be less than the **de-registration level** over the next 12 months. You could use your budget sheet in this respect.

This tax is payable on all of your sales, unless they are zero-rated or exempt. The tax paid on goods and services you have bought, as shown on the invoices, is your **input tax** and the tax on your sales is your **output tax**. If you have bought more than you have sold, or your taxable sales are zero-rated, your **input tax** will exceed your **output tax** and you will get the difference refunded.

The date on invoices you send or receive is the **tax point**, and this usually determines in which quarter's return they should be included. However, you may apply to your local VAT office to account only for the tax you have actually received, rather than from the date of invoice. This is called '**cash accounting**'. You can also recover the tax you have paid on bad debts, instead of waiting for the bankruptcy or liquidation of the debtor.

Use your last quarter's VAT return to work out a monthly average. Unless your business varies widely from quarter to quarter, this is as good a guide as any.

If you have problems understanding VAT, or if you have problems working out your monthly costs or any other questions, **phone us for advice.**

## LATE PAYMENTS AND BAD DEBTS

If someone owes you money and they are not paying you, then you should speak to or meet with them to find a resolution.

This may include an instalment arrangement or where there is a dispute, coming to some agreement. Where an invoice is partly disputed you should ask for the non-disputed part to be paid immediately and then resolve the remainder separately. Be careful not to harass the debtor (see page 33 for information on harassment).

If a business owes you money, you may have the right to claim statutory interest from them, **phone us for advice.**

If you cannot recover the debt using a direct approach then you may wish to consider court action (either by yourself or through a solicitor). You could also consider instructing a debt recovery agent. You will need to weigh up the costs of taking any formal action, particularly if the company has a defence or is unable to pay. A good credit control system can considerably reduce the problems of late payment and bad debts.

# WORKING OUT A BUSINESS BUDGET

Although Business Debtline does not deal with debt recovery issues, we do have a fact sheet to help those whose debt problems are caused by non/late payment by debtors. Additionally, your local enterprise agency/Single Business Gateway may be able to help you set up credit control systems.

For a fact sheet on  
**CREDIT CONTROL**  
please phone us on 0800 197 6026



## Bad Debts

If you suffer from a bad debt, and are registered for VAT, then you may reclaim the VAT on the debt once it has been due for more than six months and has been written off in your accounts.

## STAGE 3: DRAWINGS

When you deduct your average monthly costs from your average monthly receipts, you have a figure for **profit before tax**. In order to work out how much you can afford to draw from the business each month, it is wise to do a **rough calculation** of how much tax you will have to pay and to keep this amount aside for when the tax bill comes in. You can also **roughly** work out how much national insurance you will have to pay.

**If you are a sole trader or in a partnership, you are taxed on profit before drawings, not how much (or little) you draw from the business. The tax position is different for limited companies – phone us for further advice.**

It is our experience at Business Debtline that many self-employed people get into difficulty paying their income tax and national insurance because they haven't budgeted for it as a 'cost of trading' before they draw money for themselves. If you do not take into account income tax and national insurance, this may give a false impression that you can earn more from your business than is actually possible.

As tax allowances change on a regular basis, we have enclosed an up-to-date tax sheet. **If you are using the self-help pack some months after it was sent to you, please phone us to ensure that you are using the most up-to-date tax sheet.**

We have also enclosed a separate sheet on how to calculate income tax and national insurance at the current rates. **Please phone us if there isn't a copy with this pack or if you are using this pack some months after having originally received it.**

## Self-assessment – income tax

Self-assessment was introduced from April 1996. Requirements include keeping proper records, completion of a new style tax return and payments on account. It is important that you are familiar with the requirements and timescales for sending in the return and making tax payments, as there are fines for late returns and payments.

**If you have problems calculating your estimated income tax and national insurance or have any queries on self-assessment, phone us for advice.**

When you have worked out your estimated income tax and national insurance, the next stage is to see if the amount **available for drawings** is enough to cover your essential living expenses i.e. your **monthly outgoings** as shown in the **household budget**. Before doing this, you should first see if there are ways to increase your income, which is described in the next section of this pack. Any other additional sources of income can then also be included in your household budget.

**If there is nothing left for drawings, phone us for advice.**

# INCREASING YOUR INCOME

**Lots of people are in debt because they don't receive all the money they are entitled to. Before you work out your household budget (see page 11), use this section to see if you can increase your income.**

## BENEFITS AND TAX CREDITS

There is a range of different types of benefits, which you might be entitled to receive. This will depend on your particular circumstances. Some benefits are based on the **national insurance contributions** you have paid. These include contributory jobseeker's allowance, incapacity benefit, pensions and maternity benefits.

Other benefits are means tested. This means the amount of help you get depends on how much money you already have coming in to your home. There are also limits on the amount of savings you are allowed to have and still claim. These benefits 'top up' any income you already have. You do not have to have paid national insurance contributions to claim them.

## INCOME BASED JOBSEEKER'S ALLOWANCE

This is for people who are working less than 16 hours per week and are signing on for work. Whilst it is more difficult for someone who is self-employed to establish the number of hours a week they work than it is if you are in employment, if you supply full details to the Department for Work and Pensions (DWP), you may be able to claim this benefit rather than ceasing to trade altogether. It can also ease the transition in running your business down and looking for employment if this is your choice. The DWP would expect you to take up full-time employment if offered to you.

## INCOME SUPPORT

This is for people who do not have to sign on for work (e.g. because they are sick or caring for someone).

## PENSION CREDIT

This replaced income support (minimum income guarantee) from October 2003. You can claim if you are 60 or over. The amount you are entitled to depends on your income. There is an extra credit called 'savings credit,' if you or your partner are 65 or over. This rewards you for having moderate savings. The amount you get will depend on how much money you have saved.

## WORKING TAX CREDIT

Working tax credit can be paid on top of your wages if you are on a low income. It replaced working families' tax credit and disabled person's tax credit in April 2003. Many self-employed people are not aware that they can claim this benefit. There are several ways in which you can qualify. These include:

- If you or your partner are employed or self-employed for more than 16 hours per week and are bringing up one or more children. If you qualify by this route, the credit can also help with childcare costs in certain circumstances
- If you or your partner are employed or self-employed for more than 16 hours per week and have a disability that creates a disadvantage in getting a job
- If you or your partner started work in the last three months and are over 25 years of age **and** are employed or self-employed for 30 hours per week or more, **or** over 50 years of age **and** employed or self-employed for 16 hours or more, and in either case, have received income support, jobseeker's allowance or incapacity benefit within the last six months.

## CHILD TAX CREDIT

Child tax credit is also available if you have responsibility for children under 16 (or under 19 and in full-time education). It can be paid to individuals who are in or out of work, including the self-employed. The amount you get depends on your income. **For information on tax credits ring the tax credit helpline on 0845 300 3900.**

## EDUCATION MAINTENANCE ALLOWANCE

If you have children aged 16 plus who are staying on at school or college, they may qualify for up to £30 a week, depending upon your household income. **For information ring their helpline on 0808 101 6219.**

## HOUSING BENEFIT

You may be able to get help with paying rent on your domestic premises if you are on a low income. Contact your local council's housing benefit office for a form.

# INCREASING YOUR INCOME

## COUNCIL TAX BENEFIT

You may be able to get help with paying all or part of your council tax if you are on a low income. (See page 19 on council tax).

## OTHER BENEFITS

Some benefits are not means tested, nor do you have to have paid any national insurance contributions in order to claim them. These include child benefit if you have dependent children. There are also benefits for people with disabilities such as disability living allowance, attendance allowance and carers' allowance for their carers. Whether you can claim any of these benefits will depend upon the nature of your illness or disability and the effect it has on you.



### INFORMATION

#### Department for Work and Pensions (DWP).

The benefits agency has become the Department for Work and Pensions, which includes the Job Centre Plus network, the Pension Service, the Disability and Carers Service and the Child Support Agency. We sometimes refer to the DWP for short. Working tax credit and child tax credit are dealt with by HM Revenue and Customs.

# WORKING OUT A HOUSEHOLD BUDGET

**This section explains how to work out a household budget. You will have needed to do the business budget first to work out what you are bringing in to the household along with any other forms of income. Use this section to work out what you are spending which will then allow you to see what is left over for creditors.**

## STAGE 4: HOUSEHOLD INCOME

This should include all the income coming in to your household, including not only your drawings from the business (or your net wage if you are a director of a limited company) but also:

- **Your husband, wife, or (not business) partner's wages:** work out a monthly average of the normal take-home pay. Only include overtime if it is regular. Check with your local tax office that they have the right tax code
- Any **welfare benefit** such as jobseeker's allowance or income support
- Any **tax credits** such as working tax credit or child tax credit
- **Contributions** from other people, such as non-dependent children, who live in your home and pay towards the household expenses (i.e. people over 16, unless in full-time education in which case up to 19). Make sure they pay what it costs to keep them. Also include any maintenance you may receive.

## STAGE 5: HOUSEHOLD OUTGOINGS

Work out with your family how much money you have to pay out each month on essential living expenses. **At this stage don't include any debts or arrears or any credit repayments.**

### REMEMBER

This is your budget and should be a reflection of your household outgoings, so be honest with yourself as this forms the basis of your negotiations with your creditors later on.

- **Mortgages and secured loans** are usually paid monthly. Put the **normal** monthly payment for each mortgage on your budget. Do not include arrears at this point.
- If you have an **endowment mortgage**, show the endowment or life assurance monthly premium separately and also enter the amount you pay the mortgage company – usually the interest only part.

- **Rent.** Put your normal monthly or weekly payment here excluding arrears. Remember to see if you are entitled to any housing benefit.
- **Council tax** is usually paid in ten monthly instalments. You may be entitled to benefit if you can show the council that you are on a low income. You will need to apply for a reduction if you are the only adult in your home.
- **Water charges.** Scottish Water may accept monthly payments. Divide your normal yearly bill by 12 for monthly and put that figure in your budget. You can also ask them if you can pay weekly if this helps you to budget.
- **Gas and electricity.** Work out the cost of your bills over the year and divide the total by 12 for monthly and 52 for weekly. Phone the company and ask to pay monthly or weekly to suit your budgeting.

If you are struggling to pay your gas and electricity, the company may suggest that you have a pre-payment meter installed. These meters allow you to pay for the service as you use it and also to collect any arrears outstanding from previous bills.

Whilst some people find that this method suits their budgeting, if you are on a varying income, as are most self-employed people, there is always the danger that you may not have enough money to 'feed' the meter and in effect cut yourself off.

If you have a meter and you feel that you are paying too much, phone the company to check how it has been set and see if it can be re-set to what you can afford.

Provided you have a bank account, paying by a monthly direct debit scheme may entitle you to a discount from the company, subject to your account being up-to-date.

### INFORMATION

There is a range of grants available for insulation, draft proofing, central heating and energy advice. You may be able to apply for a Home Energy Efficiency Scheme (HEES) grant depending upon the benefits you receive and your age. In Scotland the schemes include the Warm Deal grant (Freephone number 0800 072 0150) and a central heating programme (Freephone number 0800 316 6002). Check the website [www.eaga.co.uk](http://www.eaga.co.uk)

# WORKING OUT A HOUSEHOLD BUDGET

- Housekeeping should include food, toiletries, cleaning materials etc. and a small amount for entertainment and miscellaneous expenditure. A rough guide would be as follows but please bear in mind that your expenditure may be different:

<b>Single person</b>	£152-£195 per month
<b>Couple</b>	£206-£325 per month
<b>Each child</b>	£97-£152 per month depending on age

Non-dependants such as children who have left school but still live with you, or elderly relatives living with you should not be left out as they can make a difference to the cost of housekeeping. Whether or not they make a contribution, calculate their housekeeping costs at £97-£152 per month. When writing to creditors ensure that you advise them of the number of people in the household and also whether they are adults or children.

- **Telephone.** Only include your ongoing bill. You should ask your phone company if you can pay in instalments. BT has a new payment card you can use at the post office or PayPoint outlets to pay towards your next bill. If you have been disconnected, treat the bill as a secondary creditor (see page 28). Ask about budget payments. If you agree a payment plan for your next bill, BT will let you keep an incoming calls only service.
- **Court fines.** These are a priority and should be included in your essential outgoings.
- **TV licence and rental.** You should pay your TV licence as a priority because without one you could be fined. There is a 50% reduction if you are registered blind. The licence is free if you are over 75. There are different ways of paying your TV licence:
  - At the post office or by TV licence stamps or at PayPoint outlets in shops
  - By direct debit either monthly or quarterly from your bank account. Contact the TV licensing customer enquiries on 0800 917 1490
  - There is a payment scheme called 'cash easy entry' which allows weekly or fortnightly payments if you are on housing benefit, council tax benefit, income support/income based jobseeker's allowance, working tax credit or child tax credit. **Contact the cash easy helpline on 08457 289 289.**

If you rent your TV, include this under 'TV licence and rental' on the household budget. If your TV was purchased on credit, don't include the repayments in the budget – these will be included with your secondary debts later on.

- **Travelling expenses.** If you are running a car that is also used for your business, put the proportion of the cost not allowed against business expenses into this section. If you have a second vehicle not used for business, you should include the full cost of running it in this section. In any event, always remember to include road tax, insurance, MOT, servicing and repairs.
- **Hire purchase.** If you need a car for mobility reasons and have bought the car using a hire purchase-type arrangement, you will need to include the payments in your normal 'outgoings' section of your household budget or you may risk losing the car.
- **Clothing** is an essential item and as a rough guide you should include at least £13 to £23 per month in your budget for each person in the household. Only include non-dependants if you pay for their clothing.
- **Pension contributions.** Include any amount you are paying to a private pension i.e. not deducted from a salary.
- **Maintenance.** Include voluntary payments and any payments ordered by the court or Child Support Agency.
- **Prescriptions.** If you cannot claim free prescriptions and regularly need them, you may be able to reduce the cost by buying a prepayment certificate. You should allow for the costs of prescriptions in your budget.
- **Other.** Include any other necessary expenditure and be prepared to explain what these relate to.

There may be other items of expenditure not included on our budget sheet that you consider essential for your household. Include them if you wish but be prepared to defend them if challenged by a creditor or the courts.

## REMEMBER

Your household's priority spending may be different from these suggestions. It is your budget, so the figures should be what you feel you need to live on. You may have to live with it for a long time and it is wise not to make it too tight. However, you will need to get your income and outgoings to balance if at all possible.

**If your outgoings are more than your income, phone us for advice.**

## STAGE 6: MONEY FOR CREDITORS

To find out how much money you can offer your creditors each month, take your **HOUSEHOLD OUTGOINGS** from your **HOUSEHOLD TOTAL INCOME**.

To improve the amount available, and particularly if your outgoings are more than your income you should:

- Review your business budget and consider ways of improving the position. For example:
  - You may wish to review your pricing policy and whether or not certain unprofitable lines should be discontinued
  - Look at ways of improving turnover/sales such as direct telephone calls to existing or new targeted customers
  - Ask your suppliers for better prices or to give you discounts. You may wish to consider looking at alternative suppliers
  - You may consider concentrating on your core business which may include selling or stopping part of your business activities
  - Review your business costs to see where some could be cut or reduced
  - If you are owed money you should consider formal credit control and debt recovery procedures. See 'Late payment and bad debts' on page 7.
- Check to see whether you are entitled to working tax credit, child tax credit, income support, pension credit, housing benefit or council tax benefit. Ask at your local Department for Work and Pensions office, council or local advice centre
- Check that you are spreading out payments on your household bills so you don't have to pay them all at once. Gas, electricity, water and telephone companies usually have budget payment schemes
- See if you can cut down on any of your household outgoings, (but don't cut down on basics like food, gas and electricity) in order to be able to offer even a small amount to your creditors.

**If you're having problems with any of the above, phone us for advice.**

If your income is more than your outgoings you have an amount of **MONEY FOR CREDITORS**.

**If your income is less than your outgoings, you may need to consider whether or not to continue trading (see page 37) or phone us for advice.**



### INFORMATION

On the next page is an example of a completed business and household budget to give you an idea of how you should fill this in. We refer to it later on when working out offers to your priority and secondary creditors (see page 27).

**Remember this is an example only and your figures may differ from this.**

# BUSINESS & HOUSEHOLD BUDGET

We have devised an example budget for a retailer who is married with two children. He uses a van only for business. Of course, your figures may be very different as this is a guide only.

## MONTHLY BUSINESS BUDGET

<b>STAGE 1: INCOME</b>		<b>£</b>
Receipts for 3 months	30,600.00	
<b>Average Receipts per Month (A)</b>	<b>10,200.00</b>	
<b>STAGE 2: COSTS</b>		
Stock purchases	6,000.00	
Rent	400.00	
Business rates	230.00	
Loan repayment	200.00	
Bank interest	40.00	
Bank charges	30.00	
Wages/PAYE/Nat Ins	1,015.00	
Water rates	62.00	
Gas		
Electricity	55.00	
Insurance	25.00	
Transport/motor costs	230.00	
Stationery	10.00	
Postage	12.00	
Cleaning/repairs	18.00	
Telephone	75.00	
VAT	528.00	
Accountant/professional fees	50.00	
Other	20.00	
<b>TOTAL COSTS (B)</b>	<b>9,000.00</b>	
<b>STAGE 3: DRAWINGS</b>		
<b>Income Less Costs (A) – (B)</b>	<b>1,200.00</b>	
<b>LESS:</b>		
Estimated income tax	153.00	
National insurance class 4	63.00	
National insurance class 2	9.00	
<b>Total Available for Drawings</b>	<b>975.00</b>	

## MONTHLY HOUSEHOLD BUDGET

<b>STAGE 4: HOUSEHOLD INCOME</b>		<b>£</b>
Drawings from business	975.00	
Salary (partner)	253.00	
Income support		
Jobseeker's allowance		
Child benefit	123.00	
Tax credits	114.00	
Non-dependants		
Pension		
Other benefits		
Other income		
<b>Total Income (C)</b>	<b>1,465.00</b>	
<b>STAGE 5: OUTGOINGS</b>		<b>£</b>
1st mortgage/rent	370.00	
2nd mortgage	60.00	
Endowment/life insurance	45.00	
House insurance	12.00	
Council tax	75.00	
Water	25.00	
Gas	40.00	
Electricity	40.00	
Household expenses	460.00	
Telephone	23.00	
Court fines		
TV licence & rental	10.00	
Travel expenses	100.00	
Hire purchase		
Clothing	60.00	
Pension contributions		
Maintenance		
Prescriptions/health costs	7.00	
Other	10.00	
<b>Total Outgoings (D)</b>	<b>1,337.00</b>	
<b>STAGE 6: MONEY FOR CREDITORS</b>		
<b>Available for Creditors (C) – (D)</b>	<b>128.00</b>	

The next sections in the book will explain how you should share any available money to your creditors.

# DEALING WITH PRIORITY DEBTS

This section explains what are classed as priority debts and how you should deal with them.

It also explains how to negotiate with creditors and what course of action they may take against you if you fail to do this.

## STAGE 7: PRIORITY DEBTS

### WHAT ARE PRIORITY DEBTS?

These debts should be tackled first before dealing with secondary debts. Whilst all debts are important, some debts are more important than others. The law gives different creditors different ways of getting their money back. If you don't act quickly some creditors could:

- Take possession of your business premises or home
- Cut off gas, electricity or water supplies to your business or gas and electricity to your home
- Serve an **arrestment** on your bank account, or shares or other amounts due to you held by third parties e.g. unpaid contractual payments due to you. This has the effect of freezing these assets
- Send sheriff officers to take equipment, vehicles, furniture or other goods from your business (this is called **attachment**) or, in limited circumstances, goods from your home (this is called an exceptional attachment order).

The debts where these things could happen if you delay too long are:

Debt	See page	Action against you
Business rent arrears	page 16	Repossession/attachment/arrestment/eviction
Mortgage/rent arrears	page 16	Repossession/eviction
Business rates/council tax arrears	pages 17 and 19	Attachment/arrestment/bankruptcy
Water, gas, electricity arrears	page 21	Supply cut off (note: disconnection of water supply applies to commercial premises only)
Income tax arrears	page 22	Attachment/arrestment/bankruptcy
VAT arrears	page 22	Attachment/arrestment/bankruptcy
National insurance arrears	page 22	Attachment/arrestment/bankruptcy
Unpaid court fines	page 23	Imprisonment/attachment/arrestment
Maintenance arrears	page 23	Imprisonment/arrestment/attachment
Hire purchase arrears	page 24	Repossession of the HP goods
Major suppliers	page 24	Key supplies stopped/court action/bankruptcy

These are priority debts. It is important to use your MONEY FOR CREDITORS to make agreements to settle these debts first. Be careful not to give preference to family, friends etc or other obviously non-priority creditors since you could be committing a legal offence in the event of bankruptcy or liquidation (see page 38). **If you are in doubt, phone us for further advice.**

# DEALING WITH PRIORITY DEBTS

Creditors can take action on some priority debts without going to court first, for example, gas, electricity, VAT, income tax and your business landlord.

Your other priority creditors can take action against you only after court procedures.

**But don't panic;** you will always be given warning, and provided you **act quickly** may be able to stop these things happening.

## MORTGAGE ARREARS

The most important priority for most people is to protect their home so we have prepared a separate fact sheet entitled 'Dealing with domestic mortgage arrears'. **Please phone us for a copy.**

If you are in arrears you should immediately contact your lender and discuss the options available. These will normally include:

- Instalment arrangements to pay a part of the arrears off each month (on top of the normal monthly repayment)
- Payment/capital holidays
- Conversion from an endowment mortgage to a repayment mortgage
- Adding the arrears to the mortgage, called 'capitalising' the arrears, (more likely if the value of the property is a lot more than the total amount of your mortgage)
- Increasing the mortgage term
- Paying off the interest only. If you are on a repayment mortgage you could ask the lender to accept a monthly payment to cover only the interest part of the normal monthly repayment, usually for a temporary period
- Increasing your income (see page 9)
- Mortgage rescue schemes. Some lenders operate schemes where they buy back all or part of your home and allow you to remain there as a tenant or shared owner. Contact your lender to see if they run a scheme, or alternatively ask Communities Scotland for details of local housing associations that may run a scheme.

If you are unable to afford your mortgage you will need to increase your income or may consider selling your home and seeking alternative accommodation. **Phone us for advice.**

For a fact sheet on  
**DOMESTIC MORTGAGE ARREARS**  
please phone us on 0800 197 6026



## DOMESTIC RENT ARREARS

Your rights as a domestic tenant will depend on what type of tenancy you have. This can be made more complicated if your premises are for combined domestic and business use. (In this case you may only have a business lease covering the whole of the property and in effect might not have the same rights as a domestic tenant, see business rent arrears below.) We have a separate fact sheet entitled 'Domestic rent arrears'. **Please phone us for a copy.**

You should contact your landlord as soon as possible to make an arrangement to pay towards the arrears on top of your normal monthly payment. You should also check to see if you are entitled to claim housing benefit. If your landlord takes further action against you, **phone us for advice.**

For a fact sheet on  
**DOMESTIC RENT ARREARS**  
please phone us on 0800 197 6026



## BUSINESS RENT ARREARS

Non-payment of rent is a breach of a business lease. Depending on the terms of your lease, in some cases, your landlord may be able to send sheriff officers to your business premises (or indeed attend in person) to remove your stock and equipment without a court order if you do not keep up payments of your rent. Check your lease for a clause headed 'Irritancy'. The landlord will have to give you an opportunity to put right the breach by paying the rent – details of the period you have will be in the lease. The landlord may also be required to tell your other creditors that he intends to seize your goods. There is then a risk that this will provoke a scramble among your creditors who will try to use forms of diligence (i.e. formal debt enforcement, see below for details) against you to protect their position. It is essential therefore, to let the landlord know if you are in difficulties and to come to an arrangement to pay off any arrears. Your landlord could also seek a court order for eviction and has authority for use of diligence against your other assets if you cannot make payments. Much will depend upon your relationship with the landlord and the length of any lease you may have.

If you cease trading, you may still be liable for rent. **Check the terms of your lease.** If you need help in negotiating with your landlord, **phone us for advice.**

For a fact sheet on  
**BUSINESS LEASES**  
please phone us on 0800 197 6026



## BUSINESS RATES

The amount of business rates (sometimes referred to as non-domestic rates) payable for business premises is based on the valuation carried out by the district valuer and the rate set by the regional area assessor. Appeals against the rateable value should be made within six months of occupation of the business premises, or if changes are made to the building. It is advisable to obtain professional advice from a specialist in this field if an appeal is contemplated – **phone your local assessor's office** for a list of reputable firms in your area and be very careful when dealing with firms who approach you first.

**You should not stop paying business rates just because you feel that the valuation is wrong. You are obliged to pay at the fixed rate until the valuation is changed.**

### Reliefs

It may be possible for your business to reduce the amount payable to business rates via a range of different reliefs, including the small business rate relief effective from 1 April 2005. You should apply to your local authority.

You may even be able to ask them to grant up to 100% relief if you demonstrate that you would suffer severe hardship and that it is in the interests of other ratepayers for them to do so. This would usually be if you supply an important service to the local community and only in extreme circumstances.



### INFORMATION

For the range of different reliefs available see the official government website, [www.mybusinessrates.gov.uk](http://www.mybusinessrates.gov.uk)

If you cease trading, but are still liable for the lease, you may still be liable for business rates (see page 37).

For a fact sheet on  
**BUSINESS RATES**  
please phone us on 0800 197 6026



### What happens if I don't pay my business rates?

The council will usually tell you to pay your bill in 10 monthly instalments or they may accept weekly payments. If you find at any time that you can't pay the full monthly instalment don't just stop paying!

- Keep paying what you can afford.
- Contact the council and try to come to an arrangement. Use your business and household budget to help explain your situation.

### Summary warrant

If you don't keep to any payment arrangement you make with the council they will ask the sheriff court to issue a summary warrant for the full amount they say you owe plus a 10%

surcharge. The summary warrant will state that you are due to pay your business rates and have not paid.

The court must issue the summary warrant. Although the council will have served an earlier notice demanding payment, you do not receive advance notice of the application for a summary warrant. It is considered by a sheriff without a hearing who relies on the information supplied and there is therefore no opportunity to challenge its award. If you receive a summary warrant and you think that either:

- The council have not gone through the proper procedures
- You have paid the amount owed
- The amount has been incorrectly calculated
- The name on the application for the summary warrant is wrong;

seek legal advice from a solicitor. It is very difficult to have a summary warrant reduced i.e. withdrawn, but it may be possible to negotiate a settlement if the council accept their error.

### Methods of enforcement

If you do not make an agreement with your council or don't keep up the agreed payments, they can use a number of ways to try and make you pay.



### INFORMATION

In cases of exceptional hardship the council has the power to write off the debt. They will only do this very rarely. **Phone us for advice.**

### Arrestment of bank accounts and other assets

Your bank account can be arrested i.e. frozen. This may leave you without any money. Sheriff officers may be willing to negotiate release of up to 50% of the money caught, in certain circumstances, in return for you setting up a standing order or direct debit for the remainder and giving them your employment details to make an earnings arrestment easier. You have to sign a mandate to allow the bank to release funds. If you don't the creditor will raise a 'furthercoming' action against you and the bank. This should be avoided because the costs will be awarded against you.

Other assets such as contractual payments due to you held in the hands of a third party e.g. a customer who owes you money for goods or services could also be arrested. Dividends due on shares held by you are also arrestable, as are the proceeds of the sale of shares held by your broker on your behalf. In these and other cases, as above an action of furthercoming is currently required.

Planned changes in the law of diligence will affect the procedure described here. They are not likely to take effect until late 2006 at the earliest. If you are reading this after mid 2006 contact us for advice.

# DEALING WITH PRIORITY DEBTS

## Attachment and exceptional attachment orders for non-payment of business rates

The council can ask sheriff officers to visit your business premises and take goods, which may be sold to pay off your debt. If you are a sole trader or in a partnership then the council can apply for an exceptional attachment order, and if one is awarded, they can also visit your home.

## Attachment of non-domestic property and exceptional attachment of domestic property

An attachment is the term for seizure of moveable property for sale. There is now a clear distinction between seizure of property held outside your home, (i.e. non-domestic), now known as **attachment**, and the more limited right to apply for an order to gain entry to your home for the seizure of domestic property, now known as an **exceptional attachment order**.

In the case of an attachment, your creditor needs to serve a debt advice pack on you. This has to be in the form designated by the Scottish Executive. It will explain your rights and give you details on how to get advice. This can be delivered by the sheriff officer when they visit your premises to carry out an attachment.

The sheriff officers can enter any of your business premises. They cannot enter your home to enforce an attachment. They can go into a garage or outhouse.

### Sheriff officers cannot attach:

- Any implements, tools of trade, books or other equipment reasonably required for your use in practising your profession, trade or business, up to a total value of £1000
- Any vehicle you reasonably require up to the value of £1000
- A mobile home if it is your only or main residence
- Any tools or other equipment reasonably required for the purpose of keeping your garden or yard in a good order.

Where your car has been attached because it is valued at more than £1000 there is provision to apply to have a sale within 14 days and for you to be given back £1000 to buy a second-hand replacement.

**Phone us for advice** on the best way to protect your property if the sheriff officer attaches something which is normally exempt from an attachment. You must get advice immediately. You may have to apply to court to challenge the validity of the attachment. You need to do this within 14 days. If you think something has been undervalued, you can apply to court at any time before the auction but you will need to get advice on this.

## Exceptional attachment order

An exceptional attachment order (EAO) is the new form of diligence, which creditors can try to use where they think that you have property in your home which is sufficiently valuable for them to want to try to have it attached and sold at an auction. This is now intended to be an action of last resort by a creditor. Unlike attachment for non-domestic property, the creditor has to apply to the sheriff court for an exceptional attachment order.

### Before granting an EAO a sheriff will have to consider a number of factors including:

- Whether you have already received money advice
- Any agreement between you and the local authority for the settlement of the debt
- Any declaration or representation you have made to the court about your assets, their value, and your overall financial circumstances
- Has the creditor taken reasonable steps to negotiate a settlement of the debt?
- Has the creditor tried to recover the debt by other means including an arrestment and action of forthcoming and sale, and/or an earnings arrestment?
- Is there a reasonable prospect that the amount obtained at an auction of the non-essential assets would equal the expenses of the attachment plus £100?
- Is it reasonable in all the circumstances to grant the exceptional attachment order?

If the sheriff makes an EAO, a sheriff officer will visit your home and attach articles to the value of the total debt plus expenses. He will value items on the basis of their open market value.

### Sheriff officers cannot use an EAO to attach:

- **Basic items needed for family life** including clothes, work tools, essential furniture, housekeeping equipment, children's toys and bedding, a home computer, radio, microwave, TV, telephone
- **Rented or hire purchase goods** which are still being paid off. It is best to provide evidence, such as a copy of the agreement
- **Other people's property**, i.e. anything belonging to a child, family member or neighbour. You need to show proof. The owner can tell the sheriff officer that the item belongs to them, and provide written evidence. In implementing an EAO, a sheriff officer should not attach any articles (to a value of £150) which are likely to be of sentimental value to you e.g. wedding ring.

Contact us for advice and act quickly. You only have 7 days to challenge what a sheriff officer has done to implement an exceptional attachment order.

### Sale of attached goods

Sales can usually be stopped before they go ahead. Even after an attachment (of either non-domestic or domestic goods) you may be able to prevent a sale by coming to an agreement for repayment. For example, you could get a time to pay order if you haven't had one before.

The sale will not take place in your home. Instead goods will be taken to an auction room. You must be given the chance to buy the goods back at the appraised value before the sale (i.e. the value set by the sheriff's officer.) If a sale goes ahead, there is nothing to stop a friend or relative from buying goods at the sale. If they lend you the goods back they remain their property and cannot be re-attached for your debt.

Contact us for advice and act quickly. You may still be able to make an arrangement to pay.

For a fact sheet on  
**ENFORCING DEBT BY DILIGENCE**  
please phone us on 0800 197 6026



If the sheriff officers are unable to recover sufficient goods to cover the debt, then they will usually refer the matter back to the council who will then consider other methods of enforcement.

### Arrestment of earnings

If you have ceased trading and found employment, the council can use the summary warrant to obtain an earnings arrestment i.e. an order for your employer to take a fixed amount from your wages to pay your business rates arrears. Deductions are made on a sliding scale depending on how much you earn. If you can show this is causing you hardship, you may be able to negotiate a different payment arrangement with the council for a lower amount.

### Bankruptcy

Where a summary warrant has been obtained, the council can commence bankruptcy proceedings (sole trader/partnership) or winding up proceedings (limited company) if the debt is £1500 or more. If this is threatened, **phone us for advice**. See page 38 for more details on bankruptcy and its implications for you.

## COUNCIL TAX

The amount of council tax you pay is based on two things:

- **The value of your home.** Check with your local council to see which band your home is in, A to H. If you think it is wrong, appeal to the council listing officer
- **The number of adults who live in your home and their status.** For sole occupants there is a 25% discount.

### Who pays what?

Only people over 18 are required to pay the bill. If there is more than one person over 18 living in your home, the owner will normally have to pay the bill. Joint tenants and owners may have to pay even if their names are not on the bill. If you are married or you live with someone as husband and wife both **you and your partner** can be made to pay.

Sometimes the owner of a house will be responsible for the bill even if they don't live there. This is in homes of 'multiple occupation' (e.g. bed-sits). If you are not sure who is responsible for the bill **phone us for advice**.

### Can I reduce my bill?

**You may get a reduction** if someone living in the house has a disability, and your home has had certain adaptations made for that person. You should apply to the council for this.

### You may get a discount if:

- You are the only adult in the house or
- You share your house with people who are not taken into account, such as:
  - A full-time student or student nurse
  - Someone with a mental disability who is getting certain disability benefits
  - An apprentice or people on certain youth training schemes.

### You may be able to claim council tax benefit if:

- You are on a low income with less than £16,000 savings or
- You are on income support, pension credit, jobseeker's allowance or other benefits.

You may get help with paying all or some of the bill by claiming council tax benefit. Contact your local council for an application form.

### You may be able to claim a rebate called second adult rebate if:

- You share your house with someone on a low income, who does not pay rent **and** is not your husband, wife or partner and **you** don't already get a discount for them

# DEALING WITH PRIORITY DEBTS

- If you are in this situation the council should work out if you are better off claiming your own council tax benefit or getting the second adult rebate.



## EXTRA HELP

If you feel your council tax benefit has been wrongly worked out you can ask the council for a review in writing. If you are not happy with the outcome you can appeal against the decision to an independent tribunal within a month of the review decision, but only if you think a mistake has been made. For further information contact a local welfare rights agency or **phone us for advice**.



## INFORMATION

If you feel that your council tax bill has been wrongly worked out you can appeal to a local valuation office agency. The address should be on your council tax bill.

## What happens if I don't pay council tax?

If you find at any time that you can't pay the full monthly instalment don't just stop paying!

- If your circumstances have changed you may now qualify for council tax benefit, so claim now.
- Keep paying what you can afford, no matter how little this is.
- Contact the council and try to come to an arrangement. Use your business and household budget to help explain your situation.

## Summary warrant

As with business rates, if you don't keep to any payment arrangement you make with the council they will ask the sheriff court for a summary warrant for the full amount they say you owe plus a surcharge of 10%. This says that you are due to pay your council tax and have not paid.

As in the case of business rates, the court **must** issue the summary warrant. In an identical way to business rates, the council will have served an earlier notice demanding payment, but you will not receive advance notice of the application for a summary warrant.

The application is considered by a sheriff without a hearing who relies on the information supplied and there is therefore no opportunity to challenge its award. See comments on page 17 in the section on business rates for limited opportunity to challenge the summary warrant.

## Method of enforcement

If after a summary warrant has been served, you do not make an agreement with your council or do not keep up the agreed payments, they can use a number of ways to try and make you pay.

## The council can demand that you give them details of your personal circumstances including:

- The name and address of any bank where you have an account
- The name and address of any person or persons who is jointly and severally liable with you for the debt (i.e. a spouse or co-habiting partner).

If you don't supply this information within 14 days of the request a civil penalty of £40 will be added to your debt. If you continue to refuse to provide the information a £250 penalty will be added.

The council can enforce the council tax liability through the same methods as business rates such as arrestment of bank account etc, arrestment of earnings and attachment all described on pages 17 to 19 in the section on business rates.

## Deductions from income support, pension credit or jobseeker's allowance

If you start claiming any of these benefits, you can ask the Department for Work and Pensions (DWP) to take a standard amount each week from your allowance to pay for the council tax arrears. If they agree, they should not take any further action against you whilst the money is being taken directly from your benefit.

Again, it is very important that you get advice before any hearing, and no matter what is said to you, you should always attend the hearing in person.



## REMEMBER

Because of the council's powers to make you pay business rates and council tax, you must treat it as a priority debt. If you can't pay the full amount:

- Contact your council and make an arrangement to pay
- Check the bill has been worked out correctly
- Claim council tax benefit
- Pay what you can afford.

If you have credit debts, use your business and household budget to arrange reduced payments to those creditors. See the section 'Offers to secondary creditors' for advice on how to do this on pages 29-31.

For a fact sheet on  
**RECOVERY OF COUNCIL TAX**  
please phone us on 0800 197 6026



## WATER CHARGES

Scottish Water is now the national water authority, if you are in arrears the action they can take will differ between your domestic and business supply.

### Domestic supply

Scottish Water cannot disconnect a domestic water supply. You will normally pay for your domestic supply to your local authority along with your council tax. These charges will be listed on your council tax bill. Any water arrears and council tax arrears are treated as one single debt. If you pay for your water direct to Scottish Water i.e. through a metered supply then you will be exempt from paying it through your council tax bill.

If you do not pay your domestic water charges, Scottish Water will ask the local authority to send you a summary warrant as described in the sections on business rates and council tax. All of the methods described there are available to the council on behalf of Scottish Water. Use your business and household budget to make an offer of payment towards the arrears. You should continue to pay your ongoing bill within the relevant section on the budget.

### Non-domestic (business) supply

For non-domestic premises, Scottish Water will write to give you a date when your water will be cut off. Contact them immediately and start paying for your present bill plus an amount you can afford off the arrears. You will usually be able to make an arrangement to pay off the arrears even at this stage. If you don't pay, Scottish Water will disconnect the supply and will raise court proceedings against you for the debt. Once they have a decree (i.e. a court order) they can then use diligence (see the section on business rates – method of enforcement) against your assets.

**If at this stage Scottish Water asks you to pay more than you can afford, phone us for advice.**



### WARNING

In extreme cases, the environmental risk of your business being without water could lead to you being evicted whether you own or rent.



### MORE INFORMATION

If you have a complaint about the way your water company is dealing with your arrears, contact the Water Industry Commission for Scotland, the regulatory body for Scottish Water. The Water Commission guidelines say that Scottish Water should take your circumstances into account when making an arrangement to pay.

The Water Commission can be contacted at  
Ochil House, Springkerse Business Park, Stirling FK7 7XE  
Tel: 01786 430200  
Fax: 01786 462018  
E-mail: [enquiries@watercommissioner.co.uk](mailto:enquiries@watercommissioner.co.uk)

## GAS AND ELECTRICITY ARREARS

The gas and electricity companies can cut off your supply in a few weeks if you don't pay them. **No court is involved in this decision.** It's important to contact them to make payment arrangements as soon as you know you are going to have problems. Phone or write to the company.

### How do I make an arrangement?

Contact the company and explain your problem. If the first person you speak to is unhelpful, ask to speak to someone more senior. Use your business and household budget to support your offer of payment. This must cover the cost of the fuel you are using and an amount off the arrears. **Start paying what you have offered** even if the company does not agree to your offer.

If you have bought things such as a cooker, fire or video from the company and you are paying for them through a credit agreement, ask the company to separate your fuel account from your credit account. **Your fuel supply cannot be cut off because of arrears on the credit account. (See page 28 for how to deal with this secondary debt.)**

Ask the company for a copy of their code of practice. This explains your rights and the extra protection for pensioners and people on low incomes. **If you have problems making an arrangement with the company, phone us for advice.**

### How do I avoid having my electricity/gas cut off?

You must keep paying for the fuel you are using and an amount off your debt even while you are trying to make an arrangement.

Add up your last four bills to find out how much you use in a year and divide by 12 to work out how much fuel you use each month. **The company should accept the following:**

- **Instalments.** Payment of the gas or electricity bill by weekly or monthly instalments sufficient to pay off the whole amount before the next quarterly bill arrives
- **Budget plan.** Payment for the gas or electricity you are continuing to use, plus an amount towards the arrears. The company should let you pay your debt weekly or monthly at

# DEALING WITH PRIORITY DEBTS

a rate you can afford, even if this means spreading the arrears over a long period of time

- **Meter.** Payment for continuing use and an amount you can afford off the arrears by way of a token, card or coin meter. Debt repayment/recalibration of the meter should be based on what you can afford. If the company has set the meter to take a higher amount than you can afford, send them a copy of your budget and ask them to reduce the meter setting to what you can afford.

## REMEMBER

If you have problems making an arrangement with the company, **phone us for advice.**

## Switching suppliers

If you feel that your bills are too high you may want to consider changing them for an alternative. Before you do so, you can get price comparisons to see who will be cheaper for you. Contact Energywatch or see their website [www.energywatch.org.uk](http://www.energywatch.org.uk).

## MORE INFORMATION

If you have a complaint about how your fuel company is dealing with your arrears you can contact Energywatch on **08459 060708**. Energywatch deals with complaints for OFGEM, the regulatory body for gas and electricity. Energywatch uses OFGEM guidelines that say the fuel company should take your circumstances into account when making an arrangement to pay. The address for Energywatch is listed at the back of this pack.

## HM REVENUE AND CUSTOMS

The Inland Revenue and HM Customs and Excise have now been merged into one organisation, HM Revenue and Customs, (HMRC). This new department still has the same powers as before but can now deal with both tax and VAT debts.

## INCOME TAX ARREARS

HMRC can take a number of enforcement methods to recover an unpaid tax debt. These include:

**Summary warrant leading to diligence** – this is the same procedure as described above in the sections on business rates and council tax. HMRC has the same powers to seek a summary warrant from the sheriff court. The warrant will be granted by a sheriff on the basis of information supplied by HMRC. There is no court hearing. As indicated above, it is difficult to challenge a summary warrant. However, in most cases HMRC are willing to negotiate a settlement and you can still make an offer to pay, before diligence is commenced. The same forms of diligence are available to HMRC – **arrestment of bank account etc, attachment and application for an exceptional attachment order (see the section on business rates on page 17).**

## Bankruptcy

If the debt is for £1500 or more HMRC may start bankruptcy proceedings against you. (See insolvency on page 38).

You must contact them as early as possible to arrange time to pay any arrears. Make an offer to pay off the debt at a rate you can afford, and use your business and household budget to support your offer. Even if your offer is refused, start paying what you can afford, no matter how small the amount. HMRC operates a complaints procedure to ask for your offer to be reviewed if you think it has been unfairly rejected.

If the debt is based upon a **determination** that you think is incorrect, you must submit your return as soon as possible. You should do this even if you think you may be too late. This may mean the debt is reduced and will also stop you being charged penalties for not submitting your return. Tax paid late will attract interest. **Phone us for advice.**

## VAT

HMRC has exactly the same powers to use summary warrant procedure or bankruptcy proceedings as for recovery of income tax.

You will usually have to pay any arrears in full before the next VAT return is due. Penalties will be added to the bill for late payment. The officer will usually look at your past record of VAT payments before deciding what payments to accept so **start paying what you can immediately no matter how small the amount.**

If the arrears are based upon an estimated assessment, you must submit an accurate return, which could reduce the bill. Even if you cannot pay, you may avoid a surcharge for not making a return.

If HMRC cannot recover the money owed by using diligence following award of a summary warrant, they will usually apply for a bankruptcy order. However, if you cease trading inform HMRC, or apply to de-register if your turnover is less than the de-registration limit shown on the enclosed **tax sheet**. It is then often easier to come to arrangements to pay off arrears by instalments. **Phone us for advice.**



## WARNING

HM Revenue and Customs will not tolerate businesses continuing to accrue tax arrears without a payment plan and will often commence bankruptcy proceedings even if you have no assets, with a view to stopping you trading altogether.

## NATIONAL INSURANCE ARREARS (NICs)

**There are four classes of national insurance contributions (NICs):**

- Class 1 NICs are deducted from an employee's wages and paid by the employer along with income tax under PAYE

- Class 2 NICs are paid at a flat weekly rate by self-employed people (see the enclosed tax sheet for the current amount)
- Class 3 NICs are voluntary contributions paid to help people qualify for retirement pension and certain benefits
- Class 4 NICs are paid by self-employed people in addition to class 2 NICs if earnings are above a certain threshold (see the enclosed tax sheet).

Unpaid NI contributions are collected by HMRC in the same way as income tax arrears.

## TAX CREDIT OVERPAYMENTS

In some circumstances you may be told that you have been overpaid a particular benefit e.g. working tax credit. If you do not agree you may be able to appeal. Overpayments can be recovered by different means including deductions from ongoing claims or even through the same enforcement methods as a tax debt. If recovery of a benefit will cause you hardship you may be able to reduce the amount at which you pay it back. You should speak to HMRC and ask for time to pay it back at a rate you can afford. In cases of extreme hardship they can consider writing off all or part of the debt.

**Phone us for advice if you are in this situation.**

## COURT FINES

The district court or sheriff court may order you to pay a fine, for example for a driving offence, not having a television licence or other offence. You must treat a court fine as a priority debt because you could be sent to prison if you do not pay. Your financial circumstances should be taken into account when the court decides the instalments for paying the fine. You can be fined if you do not give the court details of your income and outgoings when ordered to do so. The court can make deductions from your wages or from your benefits either when they set the fine or if you fall behind with payments. You must contact the court if you cannot pay because your circumstances have changed. They may be able to lower the amount. If you have to go to a court hearing, take a copy of your business and household budget with you.

### What if I don't pay?

If you are in arrears and do not make any arrangements to pay, the court can order that the debt is recovered by use of the same forms of diligence described on pages 17 to 19 in the section on business rates. These include arrestment of bank account etc, arrestment of earnings, attachment and exceptional attachment order. The same rules concerning entry to your business premises and in exceptional circumstances your home will apply as for the other priority debts described previously.

### The court can also:

- Order deductions of £5.00 a week from your income support, pension credit, income based or contributions based jobseeker's allowance

- Order you to be sent to prison. There will be a hearing before this happens, which you must attend and take a copy of your business and household budget with you. If you explain why you have not paid and make a new offer to pay by instalments the court may suspend the arrest warrant.

For a fact sheet on

### COURT FINES

please phone us on 0800 197 6026



## PARKING PENALTY CHARGES AND OTHER MOTORING FINES

You can discharge your liability for prosecution for stationary vehicle offences such as unlawful parking or failure to display a valid vehicle excise licence (road tax disk), by accepting a fixed penalty notice issued by the police and/or traffic wardens. Moving vehicle offences such as speeding offences are dealt with via the police and procurator fiscal conditional offer system which involves you accepting a fixed penalty for the offence. Non-payment of a procurator fiscal or police conditional offer of a fixed penalty is usually followed by prosecution. In the event of prosecution, you should consult a solicitor.

## MAINTENANCE

You can be ordered to pay maintenance to your spouse or former spouse either by a court, as part of the separation or divorce process, or in the form of child support by the Child Support Agency.

### Maintenance through the court

If a court has ordered you to pay regular maintenance payments to a spouse or former spouse, you can apply to reduce the payments if you cannot afford them. If you do not pay, the court can order you to attend a hearing to explain why you have not paid. They can give you more time to pay.

If the court decides you are deliberately not paying, they may allow your spouse or former spouse to use diligence against your assets including:

- Arrestment of bank account and/or assets held by you and/or owed to you by a third party – see the section on business rates for more details
- Use a current maintenance arrestment to force your employer to make payments directly from your wages if you are employed – this is similar to an arrestment of earnings described in the section on business rates but takes priority over other debts.
- In exceptional cases, following wilful non-payment i.e. proof you have the money but won't pay, order you to be sent to prison.

# DEALING WITH PRIORITY DEBTS

If you are in arrears you should contact the court immediately and take a copy of your business and household budget to any hearings and explain why you cannot pay the full amount. The court may reduce the amount you have to pay.

## Maintenance through the Child Support Agency

The Child Support Agency (CSA) can decide what maintenance you should pay and then collect it. This is most likely if your ex-partner is on income support or income-based jobseeker's allowance. They will decide the amount by using a set formula.

If you do not pay, the CSA has several ways of collecting money owed. The CSA can collect unpaid Child Support payments directly from your wages if you are employed, using a deduction from earnings order (DEO) – this is similar to an earnings arrestment and current maintenance arrestment but takes priority over them. The CSA can serve this on your employer without any court order.

Alternatively, if you are now on income support, pension credit or jobseeker's allowance, the CSA can arrange for deduction from your benefit, again without a court order.

If the CSA cannot use either of these methods, they can ask the sheriff court for a liability order.

You should receive a notice telling you that the CSA intend doing this. You have 21 days to object on grounds of any procedural error only. It's too late to dispute the debt. If a valid objection is made, there will be a court hearing at which you are entitled to be represented.

If a liability order is made it is authority for the CSA to use the same forms of diligence described in the section on business rates or council tax i.e. arrestment of bank account etc, attachment and exceptional attachment order.

If you are in arrears, contact the CSA to make an arrangement to pay. They may accept an amount on top of your normal payment to clear the arrears over an extended period of time. Inform them of any changes of circumstances immediately.

## HIRE PURCHASE

Depending on the circumstances, hire purchase may be a priority or a secondary debt.

### Hire purchase (HP) or conditional sale?

Don't assume that all goods bought on credit are on HP. You can buy goods on all sorts of different credit agreements and the difference is important.

Creditors can only take back goods if you have a HP or conditional sale agreement. This is because you are not the owner of the goods until you have made the final payment.



### WARNING

The company does not have to go to court to take back goods if you have paid less than a third of the total charge for credit. If you have paid more than this, the creditor will need a court order. **It is a criminal offence to sell goods on HP, without the consent of the HP company.**

With nearly all other credit agreements you own the goods and the only action creditors can take is to start action in the sheriff court to get their money back (see page 33).

If you are not sure if your credit agreement is HP, read it, ask your creditor or **phone us for advice**. If it is called a HP or conditional sale agreement your creditor may have the right to repossess the goods.

If you wish to keep the goods you will need to demonstrate that you can pay the normal payments plus something towards the arrears **or**;

In certain circumstances repossession of the goods can be suspended on terms where payments are less than the original agreement. You would need to show that this is all you can afford and explain why it is important that you keep the goods i.e. to continue trading.

If you no longer need the goods and wish to hand them back you may be able to do this without paying anything further if you have already paid over half of the total charge for credit and dependent on the state of the goods. Look at your agreement for this amount. If you have not paid half of this amount, a shortfall will be left to pay which would then be treated as a secondary debt, see page 28.

**Issues around hire purchase/conditional sale can be complex, phone us for advice.**

For a fact sheet on

**HOW TO DEAL WITH  
HIRE PURCHASE DEBTS**

**please phone us on 0800 197 6026**



## EQUIPMENT LEASES

As with HP, depending upon circumstances, equipment leases may be priority or secondary debts.

Check the agreement very carefully to see whether you have the right to keep the equipment at the end of the lease, as with a lease/purchase agreement, or if you will have to pay for the lease of the equipment for all of the period of the lease, whether you return the equipment or not. Check with the leasing company if the debt will be reduced if you return the equipment.

If you have the right to keep the equipment or if it is essential to you in order to keep trading, then arrears should be treated as a priority debt.



### WARNING

It is criminal offence to sell leased equipment without the consent of the leasing company.

**Phone us for advice.**

## MAJOR SUPPLIERS

If you cannot get suppliers from any other source, you may wish to treat the trade supplier as a priority creditor. If you can use another supplier, you may then be able to treat them as a secondary creditor. However, if you owe suppliers £1500 or more they may threaten you with bankruptcy proceedings. **Phone us for advice if you are not sure.**

## OVERDRAFTS AND LOANS

If your bank account regularly exceeds any arranged overdraft limit, not only will you incur penalty interest and charges, but you also run the risk of having the overdraft limit cancelled or not renewed when the agreement expires.

Management of your business and household finances can become chaotic if you lose control of your bank account. Unpaid cheques, direct debits and standing orders will make your debt problem worse and deposits made into your bank account may be absorbed into paying interest and bank charges rather than covering payments you need to make.

You may find it easier to convert your overdraft into a loan but remember, you will lose the flexibility of an overdraft as it is often a condition that your current account operates in credit only. You will also be committed to a monthly repayment – make sure you can afford this and make sure the interest rate is no higher than the overdraft rate.



### EXTRA HELP

If your bank is trying to persuade you to give security (i.e. against your property) for a loan or overdraft that is presently unsecured, **phone us for advice.**

If you cannot meet your current loan repayments or are in danger of going over your overdraft limit, it is important that you speak to your bank and agree an arrangement. This may include a restructuring or rescheduling of current borrowing. If you are able to, it is generally easier to deal directly with your own branch (and manager/staff) than deal with a central debt recovery unit. If you are able to reduce the balance to within the overdraft limit this may reduce borrowing charges.

**Phone us for advice if the bank threatens to close your account or send it to a debt recovery unit.**

### Secured or unsecured?

Bank overdrafts and loans may be secured or unsecured:

#### Secured

This is where the bank has security over some or all of your business assets. In some cases they may also have security over personal assets such as a family home. **A secured loan**

**or overdraft must be treated as a priority debt.** If you are a director of a limited company, you may have signed a personal guarantee that may be supported by a security over your home – this must also be considered as a priority debt.

#### Unsecured

Loans and overdrafts are unsecured where the lender does not have any security or guarantee. However depending on the circumstances, you may need to treat these as priority debts if you feel that you cannot get a banking service elsewhere and it is essential in the running of your business.

**Phone us if the bank threatens to stop cheques and put restrictions on your account.**

## NEGOTIATING WITH YOUR BANK

When you are facing debt and cashflow problems, it is essential that you speak to the bank and make an appointment to see them if possible. There are a number of options that you could consider putting to the bank.

**Remember,** it is important that you have viable proposals to put to the bank when you meet them. This should include a simple business plan, which you can prepare yourself. This does not need to be extensive or have a formal structure, but essentially needs to contain:

- Your business and household budget together with a schedule of your debts (see pages 44 to 47)
- A plan of how you see the business recovering over the next 12 months (at least). This should include a mixture of figures and words
- Include any changes you are making to improve income and reduce costs. **BUT** be realistic; don't make your projections over-optimistic. Base it on facts that you can support
- A proposal on finance arrangements to help with immediate cash problems and to support your new business plan.

Your local enterprise agency may be able to provide help with the preparation of a business plan – phone your local Single Business Gateway or Chamber of Commerce for details of what's available in your area.



### REMEMBER

You are not preparing a business plan just for the bank – first and foremost this business plan is for your own peace of mind and as such should demonstrate to you that you can trade out of your difficulties and improve your business performance. Naturally, the proposals you put forward, and the bank's response will depend on your circumstances. **Phone us for advice.**

# DEALING WITH PRIORITY DEBTS

## REMEMBER

Beware if the bank wishes to convert unsecured borrowing to that secured on your property. Always check the interest rate and any arrangement fees that are to be charged. If you are unable to make the payments on a secured loan, your property will be at risk. If you are considering this option, **phone us for advice.**

## Should I consider changing my bank?

Many people ask us this question. This is not as easy as it sounds. Also in our experience it is generally better to stay with your current bank as they know you and are more likely to listen to your problems and help with your proposals. Obviously this is not always the case, and in some circumstances, changing banks may be appropriate.

If your bank will not listen to you and you are losing control of your banking, provided the overdraft and/or loan are unsecured, it may be better to open an account at another bank.

If you have a poor credit history you may find it difficult to open another bank account. **Any new account should be operated strictly in credit to avoid running up another debt and making your problems worse.**

If you are able to open a new account, you should treat your other bank's overdraft and/or loan as a secondary debt (unless it's secured in which case it is a priority).

## REMEMBER

Always try to come to an arrangement with your existing bank first. If you are in doubt or you would like more details on any of the above, **phone us for advice.**

# pull-out draft business and household budget sheet

Use this to help you:

- work through the information pack
- draw up a business and household budget
- work out offers to your creditors.

**SCOTLAND**



Money  
Advice  
Trust

# YOUR DRAFT BUSINESS AND

Use this guide to help you fill in your master copy of the budget sheet on pages 45 and 46. This can then be sent to your creditors along with a sample letter from page 31.

## MONTHLY BUSINESS BUDGET

### STAGE 1 - INCOME £

Receipts for 3 months \_\_\_\_\_

**Average Receipts per Month (A)** \_\_\_\_\_

### STAGE 2 - COSTS £

Stock purchases \_\_\_\_\_

Rent \_\_\_\_\_

Business rates \_\_\_\_\_

Loan repayment \_\_\_\_\_

Bank interest \_\_\_\_\_

Bank charges \_\_\_\_\_

Wages/PAYE/Nat Ins \_\_\_\_\_

Water charges \_\_\_\_\_

Gas \_\_\_\_\_

Electricity \_\_\_\_\_

Insurance \_\_\_\_\_

Transport/motor costs \_\_\_\_\_

Stationery \_\_\_\_\_

Postage \_\_\_\_\_

Cleaning/repairs \_\_\_\_\_

Telephone \_\_\_\_\_

VAT \_\_\_\_\_

Accountant/professional fees \_\_\_\_\_

Other \_\_\_\_\_

**TOTAL COSTS (B)** \_\_\_\_\_

### STAGE 3 - DRAWINGS £

**Income Less Costs (A) - (B)** \_\_\_\_\_

**LESS:** \_\_\_\_\_

Estimated income tax \_\_\_\_\_

National insurance class 4 \_\_\_\_\_

National insurance class 2 \_\_\_\_\_

**Total Available for Drawings** \_\_\_\_\_

Complete business costs only here. See page 6.

Only include business loans here.

Remember to proportion the costs between business and personal if you use both. This is for business use.

If there is no money left for drawings, please phone us for advice.

Refer to the enclosed tax sheet to work this out. These figures should be put away monthly to budget for when the bill falls due. If there is no tax sheet with this pack, please phone us for one.

# HOUSEHOLD BUDGET SHEET

## MONTHLY HOUSEHOLD BUDGET

### STAGE 4 - HOUSEHOLD INCOME £

Drawings from business
Salary (partner)
Income support
Jobseeker's allowance
Child benefit
Tax credits
Non-dependants
Pension
Other benefits
Other income
<b>Total Income (C)</b>

From Monthly Business Budget opposite.

Remember to include all income coming in to your household. Refer to 'Increasing Your Income' on page 9.

### STAGE 5 - OUTGOINGS £

1st mortgage/rent
2nd mortgage
Endowment/Life Insurance
House insurance
Council tax/water
Water (if separate)
Gas
Electricity
Household expenses
Telephone
Court fines
TV licence & rental
Travel expenses
Hire purchase
Clothing
Pension contributions
Maintenance
Health costs
Other
<b>Total Outgoings (D)</b>

See page 11.

You will normally pay your Council tax and water together.

See page 14 for sample household amounts.

Do not include sheriff's court decrees which should be included with secondary creditors. See page 28.

Remember to include amounts for car tax, insurance, petrol and MOT.

This could include prescriptions, dental treatment, eye tests etc.

This could be for sundries such as birthdays, Christmas, repairs or emergencies.

#### TRAVEL EXPENSES

Petrol	_____
Bus	_____
Car tax	_____
Car insurance	_____
MOT & Servicing	_____
<b>TOTAL</b>	_____

### STAGE 6 MONEY FOR CREDITORS £

**Available for Creditors (C) - (D)**

This figure is carried over on to the repayment schedule overleaf. If there is nothing available or a minus figure phone us for advice. See page 13.



## Example of offers to priority creditors

In our example, the table below shows which priority creditors our retailer has arrears with and examples of the offers he has been able to negotiate with these creditors.

<b>Available money for creditors (E)</b>		<b>£ 128</b>
<b>STAGE 7</b>		
<b>Priority creditors</b> (See Pages 15 to 26)	<b>Balance Outstanding</b> £	<b>Monthly Repayments Offer</b> £
Business Rent Arrears	400	40
Domestic Mortgage Arrears		
VAT		
Tax & PAYE		
Business Rates Arrears	300	40
Council Tax Arrears		
Utilities Arrears		
<b>Total Priority Debts</b>	<b>700</b>	<b>80</b>

From the budget sheet on page 14 our retailer has a total of £128 available to pay towards his creditors. He has now negotiated with his priority creditors to pay a total of £80 a month to catch up his arrears.

**Remember this is just an example. Your figures may be longer and more complicated.**

**The next section covers how to work out offers to your secondary creditors.**

# DEALING WITH SECONDARY CREDITORS

This section explains how to deal with secondary creditors i.e. non priority.

It explains how to calculate how much you should pay towards your secondary creditors if there are funds available to do so. It also explains what course of action they may take and how to deal with this.

## STAGE 8: MONEY FOR SECONDARY CREDITORS

### What are secondary creditors?

These include lots of different types of debts where the creditor hasn't got extra powers (e.g. they cannot take your home). This means they do not have to be treated as a priority. **The most common secondary debts include:**

- Credit card debts
- Personal loans with finance companies
- Bank and building society unsecured loans, overdrafts and credit cards. (Remember this may be different for business overdrafts/loans if they are essential for you to keep trading, see page 25)
- Charge cards
- Catalogues
- Personal debts to friends and family
- Doorstep collected loans
- Credit sale agreements
- Trading cheques/vouchers.

**Once you have made arrangements with priority creditors, what you have left from your money available to creditors at stage 6 should be offered to secondary creditors. Work out your money for the secondary debts figure by deducting the amount offered to priority creditors from the stage 6 figure. See the example on page 30.**

### Check the name on the bill

Business partners are each liable for all debts incurred by the partnership. This is called 'joint and several liability' and is explained more fully on page 42.

A husband and wife are not responsible for each other's debts unless they are in partnership in business, or they both sign the agreement.

Young people have full legal capacity at 16 years, but a court can set aside transactions by those under 18 if it is considered 'prejudicial' (defined as a transaction that an adult acting with 'reasonable prudence' in the same set of circumstances would not have entered into). The court can set aside such a transaction until the young person reaches 21 years of age. The main exception to this general rule is that a child under 16 can enter into a transaction 'commonly' entered into by persons of that age (e.g. buying sweets or railway tickets) but not unusual contracts (such as the purchase of a bike or computer). Parents are not responsible for their children's debts unless they have signed a guarantee.

If you are a director of a limited company, you will not be personally responsible for the company's debts, unless you have signed a personal guarantee or indemnity. If the Inland Revenue propose to transfer a PAYE liability from the limited company to you as a director, then **phone us for advice.**

Creditors may ask for a guarantor before agreeing to lend money. This means that if the person who has borrowed the money does not pay it back, the guarantor will be asked to pay.

**If you have a guarantor for one of your credit debts, or if you are guarantor for someone else, phone us for advice.**

## INTEREST

All debts have two parts – the money borrowed i.e. the 'principal' sum and the interest. Interest is the charge for lending you the money. You will need to find out if interest is still being added to any of your debts.

When you make an offer of repayment to creditors, if this amount is less than the interest being added, your debt will continue to grow, and you won't get anywhere in reducing the amount you owe. **You should ask the creditors to stop charging you any more interest.** See the example letter on page 31.

If some creditors refuse to stop interest, but other creditors agree, mention the names of the creditors who have agreed as a way of trying to persuade those refusing to reconsider. If you cannot reach an agreement with your creditors, **then phone us for advice.**

## COPIES OF CREDIT AGREEMENTS

You have the right to ask for a copy of your credit agreement. Write to the creditor and ask for a copy of the agreement under the Consumer Credit Act 1974, section 77-78. You must send a fee of £1.00 with the letter. If your creditor does not send you a copy of your agreement within 12 working days then they are not allowed to take further action against you **until** they send you the agreement. You can take out an agreement over the internet from January 2005. These rules may not apply to you. **Phone us for advice.**

## DATA PROTECTION

You can also write to your lender and request that they send you all the information held by them on computer to do with your account. This request should be made under the Data Protection Acts 1984 and 1998 and refer to the 'right of subject access' under the acts. List all your addresses for the past six years. The lender has 40 days to comply.

The lender can charge you a fee of up to £10.00 for supplying the information.

If the lender does not comply with the request you should complain to the Office of the Information Commissioner, the address is on page 49.

## OFFERS TO SECONDARY CREDITORS

After paying your outgoings and making arrangements to pay your priority debts, there may be nothing left to pay other creditors.

**If you have nothing left, say so.** Show your creditors by sending them your business and household budget and a letter to back this up. (See our example letter on page 31).

If you have something left, the best way to divide it amongst your creditors is on a pro-rata basis. This is how the court would do it and means that all your creditors get a fair share of what is available in proportion to the amount you owe them and other creditors.



### INFORMATION

Don't worry if your offers look very small.

Remember, most creditors would rather you pay a small amount regularly rather than nothing at all or indeed promises you can't keep to.

**Even if a creditor has already taken you to the sheriff court,** you should include this amount with the secondary debts and work out the offer of payment in the same way (see page 33 'What if my creditors take court action?').

- Contact all your creditors to find out exactly how much you owe each one.
- Add up all the individual debts to find out how much you owe in total.
- Divide each individual debt by your total.
- Multiply that figure by your money for secondary creditors figure to find out how much you should pay each creditor.

## FREE DEBT MANAGEMENT PROGRAMME

If after working through your budget sheets you have money left over to offer for your secondary creditors, you may be able to get assistance from National Debtline, a free, independent advice service who will look to set you up with a free debt management programme (DMP). This is subject to fulfilling certain criteria. They may be able to set you up a free DMP if:

- You have at least three secondary creditors and
- Your money available to secondary creditors is £100 per month or more and
- You owe at least £5,000 in total.

If you feel that you may qualify for this, you will need to speak to us first to make sure that you have dealt with your business budget correctly as National Debtline will expect you to have sought our advice as a self-employed person before contacting them. **Phone us for advice.**

# DEALING WITH SECONDARY CREDITORS

## EXAMPLE OF OFFERS TO SECONDARY CREDITORS

The retailer in our example owes £300 business rates arrears and £400 rent arrears for the shop. An arrangement is made with the landlord to pay the current rent, plus £40 per month off the arrears. The council agrees to repayment of the business rates arrears at £40 per month, which will clear the arrears before the next bill is due.

Money for secondary creditors is now £48 a month because £80 a month is being paid to priority creditors.

Below is how the £48 is divided fairly between creditors.

Each individual debt is divided by the total amount owed (£2,400), then multiplied by £48 – double check the payments you calculate which should add up to the total amount available for secondary creditors i.e. in this example £48.



### REMEMBER

Your list of debts may be longer and different. This is just an example to help you make the pro-rata calculation – use a calculator!

#### Our retailer owes:

Flexible bank card	600.00
Wholesale company	400.00
Easichack Financial Services	200.00
Finance company	1,200.00
<b>Total</b>	<b>£2,400.00</b>

Flexible bank card $£600 \div 2400 = 0.25$ $0.25 \times £48 = £12$	Easichack Financial Services $£200 \div 2400 = 0.083$ $0.083 \times £48 = £4$
Wholesale company $£400 \div 2400 = 0.167$ $0.167 \times £48 = £8$	Finance company $£1200 \div 2400 = 0.50$ $0.50 \times £48 = £24$
<b>Total to secondary creditors £48</b>	

Available money for creditors (E)

£ 128

## REPAYMENT SCHEDULE

	Balance Outstanding £	Monthly Repayments Offer £
<b>STAGE 7 – PRIORITY CREDITORS</b> (See Pages 15 to 25)		
Secured business loan/rent arrears	400	40
Domestic mortgage arrears		
VAT		
Tax & PAYE		
Business rates arrears	300	40
Council tax arrears		
Utilities arrears		
<b>Total Priority Debts (F)</b>	<b>700</b>	<b>80</b>
<b>Available for Secondary Creditors (E)-(F)</b>		<b>48</b>
<b>STAGE 8 – SECONDARY CREDITORS</b> (See Pages 28 to 36)		
Flexible bank card	600	12
Wholesale company	400	8
Easichack Financial Services	200	4
Finance company	1,200	24
<b>Total</b>	<b>2,400</b>	<b>48</b>

## EXAMPLE LETTER TO SECONDARY CREDITORS

You can write out the following example letter and send it to your creditors. We have used square brackets [ ] to suggest different points you may want to make. Choose the ones that fit your circumstances and make any other changes you need to explain your situation to your creditors.



**Remember: always keep copies of your business and household budget and any letters you send or receive, together with a notebook or diary of telephone conversations you have – make a note of the name of the person you speak to for future reference.**

Secondary creditor's name and address

.....  
.....

Your name and address

.....  
.....

Dear Sir/Madam,

Business Name and address

.....  
.....

Account No. ....

Like many small businesses I am/we are experiencing trading difficulties but feel that with the co-operation of creditors the business may be able to continue trading. I enclose details of the total debts outstanding. Also enclosed is my/our business and household budget sheet, which shows income from all sources and total household outgoings.

As you can see, I/we have [only £...per month] [only £... per week] [no money] left for outstanding debts.

[The offers made to creditors have been worked out on a pro-rata basis] and I/we have written to all creditors asking them to accept [reduced payments] [token payments] [a moratorium for three months].

### **EITHER**

[In view of my present financial circumstances would you please accept payment of £...per month [£... per week]. It would be appreciated if you would confirm that interest will be frozen so that payments will reduce the actual debt.]

I would be grateful if you could send me a [paying in book] [standing order form] to make it easier to pay.

### **OR**

[In view of my present circumstances it would be appreciated if you would agree to a three month moratorium to enable me to find employment.]

I am/we are making every effort to increase my/our income and will keep you informed as soon as my/our financial circumstances improve.

I/we ask that you give serious and sympathetic consideration to this proposal and look forward to hearing from you.

Yours faithfully

Signed .....

← A moratorium is an agreement to take no action for a short time (despite no offer of payment being made) on the basis that in time your position may improve enough for you to offer some level of payment.

**Phone us if you would like more advice on writing to your creditors**

# DEALING WITH SECONDARY CREDITORS

## MAKING PAYMENTS AND WAYS TO PAY

When you have made arrangements with your creditors, you will need a convenient way to pay. **There are several things you could do:**

- Open a building society account that offers free standing orders
- Ask your creditors for a paying-in book
- Check whether you have a PayPoint outlet at a local shop and if your creditors are part of this scheme
- If collectors call weekly at your home and you are offering a small amount, ask them to call every month instead
- You may be able to pay at a creditor's local office or retail outlet such as a shop
- If you send cheques or postal orders make sure you send your reference/account number and a covering note
- Keep a record of all the payments you make in case you need to dispute the amount the creditor says you owe.

### REMEMBER

Start paying as soon as you can. If there is a delay in arranging a payment method, tell the creditor why and see if they can help. In the meantime, put the money to one side so that you can bring payments up-to-date if there is a delay in making the first payments.

Your creditors will often write to you after you've made an agreement, perhaps every three months, to see if you can now afford to pay more. If you still can't afford higher payments, write back and tell them, with a copy of your budget. Still pay what you can afford even if they want more.

## WHAT IF A CREDITOR REFUSES MY OFFER?

Sometimes one or more of your creditors will refuse to accept the offer of payment you have made on your business and household budget and demand more than you can afford. However, don't give up; you can usually persuade creditors to accept your offer of payment by using the following steps:

- Start paying the amount you have offered anyway
- If some of your creditors have accepted your offer of payment, write to the creditors who have refused and tell them this.

For a fact sheet on  
**WHAT IF A CREDITOR REFUSES MY OFFER?**  
please phone us on 0800 197 6026



If a collector calls for your payment you should not let them persuade you to pay more than the amount you have offered no matter how persuasive they may be. Otherwise, you will not be able to make the payments on your **priority debts**.

Also, it isn't fair to other secondary creditors who have accepted your offer and may jeopardise other arrangements you have made.

Most financial institutions are members of a trade association and have agreed to a code of practice. This says they should be sympathetic in cases of genuine difficulty.

**Phone us if you feel a lender is acting unreasonably and we may be able to put you in touch with their trade association.**

It may be more difficult to come to an arrangement with trade creditors, but keep trying because it is in their interests for you to make some payment, rather than nothing at all.

Also, if you continue to trade with them on a cash basis whilst reducing your debt, you remain a customer and most firms don't want to lose business as long as the debt is not getting any worse.

### REMEMBER

The offers of payment in your business and household budget are fair to all your creditors and the most you can afford. If you allow one creditor to pressure you to pay more than is shown, you will not have enough for your outgoings and other creditors.

## A FURTHER OPPORTUNITY TO MAKE AN ARRANGEMENT - THE DEBT ARRANGEMENT SCHEME

If some or all of your creditors have refused an offer of repayment (or if you think it likely that some will do so) you should consider whether to apply for a debt payment programme (DPP) under the new debt arrangement scheme (DAS) which has recently been introduced in Scotland. If your application for a DPP is accepted, you will be required to make just one single regular payment. This is made to an approved payments distributor. The payment distributor will then send the money to your creditors. The scheme is free for people paying debts under an approved **debt payment programme**.

This will be a formal arrangement. If you keep to the agreed payments your creditors will not be able to use diligence against you.

An approved DAS debt payment programme will also provide protection from bankruptcy. Whilst it does not absolutely guarantee protection, it is likely to prevent the loss of your home provided you keep up your payments to the payment distributor and any ongoing regular payments e.g. mortgage or rent payments.

### To be eligible to apply you need:

- More than one debt
- Some surplus income after you have worked out your essential expenditure and drawn up a financial statement (see fact sheet).

You cannot apply directly. If you think that you might benefit from a debt payment programme you should consult an approved money adviser.

For a fact sheet on  
**THE DEBT ARRANGEMENT SCHEME**  
please phone us on 0800 197 6026



### WHAT CAN I DO IF CREDITORS HARASS ME?

If you do not pay, your creditors are allowed to keep reminding you from time to time, but they must not do anything illegal. If they threaten or harass you to try and make you pay, they may be committing a criminal offence.

The Office of Fair Trading (OFT) has issued new debt collection guidance from July 2003. It sets out the kind of behaviour which the OFT will regard as 'unfair business practices'. Breaches may call into question the lender's fitness to hold a consumer credit licence.

#### The general principles in the guidance are that creditors should not:

- Communicate with you in an unclear, inaccurate or misleading manner (e.g. use documents made to look like official court documents)
- Contact you in a deceitful manner (e.g. by misrepresenting the legal position such as pretending to be a bailiff and having the power to remove goods)
- Put psychological pressure on you to the point of being oppressive (e.g. threatening to tell your neighbours about your debts or repeatedly calling you at home and at work)
- Use unfair methods (e.g. refusing to negotiate or bypassing your representative and contacting you direct)
- Levy charges unfairly (e.g. apply unreasonable charges which bear no relation to recovery costs).

If you think you are being treated unfairly, **phone us for advice** about making a complaint to the Office of Fair Trading.

You can't be prosecuted in the criminal court because you haven't paid your debts but some creditors might try to make you think you can – that's illegal as well.

If you are being harassed in any of these ways tell your local trading standards department or consumer protection department. If you have any queries about whether a creditor is acting legally, contact them. Their phone number and address are in the phone book, under the name of your local council.

For a fact sheet on  
**HARASSMENT**  
please phone us on 0800 197 6026



### WHAT IF MY CREDITORS TAKE COURT ACTION?

Many people are frightened of courts especially when they feel guilty because they owe money. But the sheriff court is not there to judge anyone guilty or innocent, but to settle disputes about money owed, and how to repay it. The court is not there to serve the interests of creditors alone.

Normally, you will receive a 'summons' through the post recorded delivery. This is the document starting the court action. Sometimes, if the creditor thinks they will have difficulty in getting you to sign for it they will get sheriff officers to serve it on you. The summons will state how you come to owe the money and how much is due.

If you are a **sole trader** the following information can be used by you as a general guide if you don't dispute the debt. However, you should seek legal advice from a solicitor if you want to dispute the debt. Costs will be awarded against you if you lose the case and you should make a properly informed decision before defending a court action.

If you are in a **partnership** the creditor should serve a copy on each of the partners. You should discuss the case with your partners before deciding what to do and agree a common approach. A majority of partners need to agree to offer payment or defend the action. If you can't reach agreement, you need to get legal advice from a solicitor. If the partnership has been dissolved you will all be sued as individuals.

If you are a director of a limited **company**, you should not be sued as an individual unless you signed a personal guarantee. If the company is sued, the directors need to agree how to respond. The company secretary should respond on behalf of the company. If you have been sued as an individual despite the business being a company and you have not signed a guarantee, you should get advice from a solicitor immediately.

Assuming you are a sole trader or a partner of a firm which has been dissolved and have to reply as an individual, there will be a reply form with the summons for you to make your offer of repayment. There are instructions included on how to fill in the form. It looks quite like a personal budget sheet and asks for similar information on income and essential expenses. There is a section you can fill in to include the payments you make on your priority debts. You also have space to include any other orders you may have and to list your credit debts.

# DEALING WITH SECONDARY CREDITORS

Depending on the size of the debt, different court procedures will be used – currently small claims for debts up to £750, summary cause for debts over £750 but less than £1500, ordinary cause for debts over £1500. These are due to change soon.



## INFORMATION

**If you don't agree with the amount of the debt they say you owe, fill in the section of the court form which is headed 'Defender's Response to the Summons' (for small claims or summary cause).** In small claims you don't need to go into detail until you attend court but in summary cause you need to state your defence. **In both cases send the form back to court by the date stated on the form.**

For ordinary cause actions you will need the help of a solicitor if you want to dispute the debt. You will need to send a Notice of Intention to Defend in to the court. This is a more formal document.

If you are a sole trader or a former partner of a dissolved partnership, and have been sued as an individual and you accept the debt but want time to pay, you should fill in the form and send it back to the court. You should also copy it to the creditor (called the 'pursuer'). There is a time limit from the date on the postmark to send back the form. This may be 14 or 21 days depending upon the type of procedure adopted. If you are given time to pay, this is called a time to pay direction. If you do not respond the court will order you to pay the debt in full in one lump sum. Under small claims and summary cause rules, if the creditor accepts your offer, you will not need to go to court. You can check this by phoning the sheriff clerk's office the day before the hearing date. If they do not accept, turn up at the hearing and make your case.

Under ordinary cause rules, if the creditor accepts your offer, you do not need to appear in court. However, if the creditor does not accept your offer, a date will be fixed for a hearing which you should attend. Always take a copy of your personal budget with you.

If your partnership is still active, the court action should be raised against the partnership using its name or in a court of session case with the addition of the names of the partners. You may not be able to use the time to pay direction procedure as you are not being sued as an individual. Try negotiating time to pay with the creditor. In the event that they won't accept your offer, you should get representation from a solicitor for the court hearing and ask the creditor to consider continuing the case to allow the partnership to pay the debt. Alternatively, if the creditor insists on decree being awarded, ask them to hold off using diligence to allow time to pay.

If you are a director of a company which has been sued, it is essential that you obtain legal advice from a solicitor before responding to the court action, as failure to respond appropriately, could later cause you to be deemed to have traded while insolvent which is an offence under the Companies Act. This may also be best if you are sued as an

individual as a result of having signed a guarantee as your home may be at risk if the creditor decided to use bankruptcy proceedings against you – see the section on insolvency on page 38.

## Reducing payments on court orders

Payments you have been ordered to make can be reduced if your circumstances change or if you can't afford the payment. You can apply for a reduction. Contact a local CAB or law centre. **Phone us for advice.**

If creditors have already taken you to court – as an individual sole trader – or former partner, as above you can still apply to the court for a time to pay order, if you have not previously broken an arrangement set up by the court.

## What are the disadvantages of being taken to court?

### Disadvantages include the following:

- Court costs are added onto your debt, although creditors cannot add on what they wish. Court costs are fixed depending upon the amount of money owed
- Details of court decrees are recorded in sheriff court records and passed to credit reference agencies. This may make it difficult for you to get credit from suppliers in the future
- Interest will be added to the debt at either the existing contracted rate or at a standard judicial rate.

If you do not pay the amount that the court orders, the creditor may take further action against you so make sure you pay your monthly payments regularly. If you cannot afford the amount the court originally fixed you should apply for them to be reduced. If you default, the creditor will be able to use diligence or bankruptcy proceedings against you.

## FURTHER ACTION THE CREDITOR CAN TAKE

If you do not pay the debt either in whole or by the agreed instalments, the creditor can ask the court to take further action. The following methods are most commonly used.

### Service of charge of payment

If you don't keep up with instalments or any other arrangement agreed by the courts, the creditor has the right to take certain steps to recover the debt. In this situation, you would first receive a document called a 'charge', ordering you to pay. The charge has a similar status to the summary warrant referred to in the section on business rates. It is authority for the creditor to use diligence e.g. earnings arrestment or an attachment. These are summarised below.

### Earnings arrestment

**If you have ceased trading and are now employed this may be used against you.** If no other arrangements have been reached within 14 days of receiving the charge, your earnings could be arrested. If this happens, you and your employer will receive a document called a 'schedule of

arrestment'. It will state how much money is owed, and order your employer to make deductions from your earnings until the debt is paid off. You will still receive a proportion of your earnings.

### Bank account arrestment

Your account can be frozen. This may leave you without any money. In certain circumstances, sheriff officers may be willing to negotiate release of up to 50% of the money in the account, in return for you setting up a standing order for the remainder owed and giving them your employment details to make an earnings arrestment easier. You may be able to challenge this if the money is from the social security benefit paid into your bank account. You may still be able to apply for a time to pay order if you haven't already done so. You have to sign a mandate to allow the bank to release funds. If you don't the creditor will raise a 'furthercoming' action against you and the bank. This should be avoided because the costs will be awarded against you.

### Attachment

If the debt can't be recovered through earnings arrestment, a sheriff officer may decide to try to arrange the seizure, and sale of some items of your personal property. There is a distinction made between a creditor's rights to try to arrange the seizure of property located outwith (from outside) your home, now known as an **attachment** and the more limited right to apply for an order to gain entry to your home for the seizure of domestic property, now known as an **exceptional attachment order**.

In the case of an attachment, your creditor needs to serve a debt advice pack on you. This has to be in the form designated by the Scottish Executive. It will explain your rights and give you details how to get advice. This can be delivered by the sheriff officer when they visit your house to carry out an attachment. NB: they cannot enter your home to enforce an attachment. They can go into a garage or outhouse. They can however enter any of your business premises.

#### Sheriff officers cannot attach:

- Any implements, tools of trade, books or other equipment reasonably required for your use in practising your profession, trade or business, up to a total value of £1000
- Any vehicle you reasonably require up to the value of £1000
- A mobile home if it is your only or main residence
- Any tools or other equipment reasonably required for the purpose of keeping your garden or yard in a good order.

Where your car has been attached because it is valued at more than £1000 there is provision to apply to have a sale within 14 days and for you to be given back £1000 to buy a second hand replacement.

Items which are jointly owned can be attached. However, you can sometimes avoid the sale of something that is jointly owned by arranging for your partner to buy your share of the item. Or the other person can apply to the court to ask the sheriff to release the goods owned in common on the grounds that a sale of them would be unduly harsh to that person.

**Phone us for advice** on the best way to protect your property if the sheriff officer attaches something which is normally exempt from an attachment. You must get advice immediately. You may have to apply to the court to challenge the validity of the attachment. You need to do this within 14 days. If you think something has been undervalued, you can apply to court at any time before the auction but you will need to get advice on this.

An **exceptional attachment order**, (EAO) is the new form of diligence, which creditors can try to use where they think that you have property in your home which is sufficiently valuable for them to want to try to have it attached and sold at an auction. This is now intended to be an action of last resort by a creditor. Unlike attachment for non-domestic property, the creditor has to apply to the sheriff court for an exceptional attachment order.

#### Before granting an EAO a sheriff will have to consider a number of factors including:

- Whether you have already received money advice
- Any agreement between you and the local authority for the settlement of the debt
- Any declaration or representation you have made to the court about your assets, their value and your overall financial circumstances
- Has the creditor taken reasonable steps to negotiate a settlement of the debt?
- Has the creditor tried to recover the debt by other means including:
  - an arrestment and action of furthercoming and sale and/or
  - an earnings arrestment
- Is there a reasonable prospect that the amount obtained at an auction of the your non-essential assets would equal the expenses of the attachment plus £100?
- Is it reasonable in all the circumstances to grant the exceptional attachment order?

If the sheriff makes an EAO, a sheriff officer will visit your home and attach articles to the value of the total debt plus expenses. He will value items on the basis of their open market value.

# DEALING WITH SECONDARY CREDITORS

## Sheriff officers cannot use an EAO to attach:

- **Basic items needed for family life** including clothes, work tools, essential furniture, housekeeping equipment, children's toys and bedding, a home computer, radio, microwave, TV, telephone
- **Rented or hire purchase goods** which are still being paid off. It is best to provide evidence, such as a copy of the agreement
- **Other people's property**, i.e. anything belonging to a child, family member or neighbour. You need to show proof. The owner can tell the sheriff officer that the item belongs to them, and provide written evidence. In implementing an EAO, a sheriff officer should not attach any articles (to a value of £150) which are likely to be of sentimental value to you e.g. wedding ring.

## Sale of attached goods

Sales can usually be stopped before they go ahead. Even after an attachment (of either non-domestic or domestic goods) you may be able to prevent a sale by coming to an agreement for repayment. For example, you could get a time to pay order if you haven't had one before.

The sale will not take place in your home. Instead goods will be taken to an auction room. You must be given the chance to buy the goods back at the appraised value before the sale (i.e. the value set by the sheriff's officer.) If a sale goes ahead, there is nothing to stop a friend or relative from buying goods at the sale. If they lend you the goods back they remain their property and cannot be re-attached for your debt.

### REMEMBER

You have rights as well as your creditors.

## CAN I GET CREDIT AGAIN?

There is no such thing as an actual 'credit blacklist' but if you do not pay your debts, you may find it difficult to get credit in the future.

When you apply for credit, most companies will consult a credit reference agency. They keep records of all court decrees for payment of money and details about credit accounts. This will show if you are behind with your payments. If you are in arrears or have an unsatisfied court decree for payment of money, you may well be refused credit. The records will also show when you have paid your debts.

If you are refused credit, you have a right to ask if the finance company has used a credit reference agency. They must give you the agency's name and address. To find out what information an agency holds on you, write to them and enclose a cheque or postal order for £2. The agency should send the information within seven days. If the information is wrong, you have a right to change it.

The office of the Information Commissioner publishes a useful guide dealing with credit reference agencies, called 'Credit Explained' The address is listed on page 49.

For a fact sheet on  
**CREDIT REFERENCE AGENCIES**  
please phone us on 0800 197 6026



## CREDIT REPAIR COMPANIES

You may have heard of companies that offer to clear your credit record on payment of a fee. Be very careful. Many credit repair companies promise to remove judgements when they cannot legally be removed. Before sending any money to a credit repair company, contact your local trading standards department or look at this website which gives more information on credit repair ([www.ukcreditrepair.co.uk](http://www.ukcreditrepair.co.uk)) or **phone us for advice.**

**This section explains what you should do if you need to cease trading. It also explains what happens if a creditor wishes to make you bankrupt or if you wish to make yourself bankrupt, as well as alternatives such as a trust deed for creditors.**

## SHOULD I CONTINUE TRADING?

It may be clear from your business and household budget that you are trading at a loss, but this may be because of short-term cash difficulties.

**Phone us for advice if you do not know whether you should continue trading.**

### REMEMBER

If you delay too long before ceasing to trade in an unprofitable business, it may be more difficult to solve your problems.

There are a few things that you should do, if you decide to cease trading.

1. **Tell HMRC (tax office)** that you have ceased to trade. They will require a completed tax return for the tax year in which you ceased trading, but this cannot normally be completed until the following 5th April. You should also review the 'payments on account' you are due to pay as you may need to ask them to be amended to reflect your cessation of trading. If you have been trading at a loss, this will be taken into account when your tax for the whole year is calculated.

### REMEMBER

If you already have an arrangement for payment of your tax liability and your ability to maintain payment is affected by ceasing to trade, let HMRC know – don't simply stop making payments. Re-negotiate the arrangement based on your changed financial situation.

**If you cannot afford to pay your accountant and so cannot provide final accounts, phone us for advice, or phone TaxAid (see page 49).**

2. **Tell HMRC (VAT office)** that you have ceased to trade. They will send a booklet containing a form for you to apply for de-registration and to send a final return. If you do not complete these forms, they will continue to send assessments, followed by enforcement of arrears. Remember, it is usually easier to make an arrangement for repayment of any VAT arrears after you have ceased trading.
3. **Check your business lease.** If it still has some years to run, it may be possible to assign (transfer) it to someone else. Your landlord's permission will be required for an

assignment, and whilst it should not be unreasonably refused, you will usually have to pay the legal costs. **Take care though – if the person to whom you assign the lease subsequently doesn't pay their rent, you may become liable again under the original lease agreement.** If you cannot assign the lease, you will continue to be responsible for the rent for the remainder of the lease even if you have ceased trading. Tell your landlord you are ceasing to trade and see if he will accept surrender of the lease, if you cannot find anyone to take it over.

4. **Tell the council** that you are no longer trading from the premises. If you have a shop, there will be no business rates to pay for the empty property for three months, but you will have to pay 50% after that if nobody takes over the lease to the premises. There are no business rates to pay on empty factory or warehouse premises.
5. **Remember** to obtain final readings of gas and electricity meters and obtain final accounts for water and the telephone at your business premises. Arrears may be added to domestic accounts. **Phone us for advice if this happens.**
6. **Tell the contributions agency** you have ceased trading, as you will not be liable for class 2 national insurance contributions (NICs).
7. **Check your priority debts.** Arrears of rent for the business premises and business fuel supplies may no longer be a priority, but tax, VAT, and business rates must still be treated as priorities if you are to avoid diligence and/or bankruptcy. **If your business trades as a limited company, inform Companies House in writing (see page 48).**
8. **Paying creditors once you have ceased trading.** Once you have ceased to trade you may find that your creditors will give you more time to pay. You could also consider making them lump sum payments as a 'full and final' settlement of the debt. However, such a settlement may not be legally binding unless by way of a trust deed for creditors (see page 40) a debt payment programme made under the debt arrangement scheme (see page 32) or supported by an extra judicial composition contract (a written agreement between you and your creditor). The success of this type of strategy largely depends on your ability to negotiate directly with the creditors and convince them that such an approach

# INSOLVENCY

gives them the greatest return, compared with say, bankruptcy. It is important that all creditors are treated fairly no matter how much pressure they put on you.

## REMEMBER

If you cease trading, you should find out what benefits you are entitled to claim. If you are entitled to either income support or income based jobseeker's allowance, you may be able to get assistance with your mortgage interest payments after a certain waiting period.

**If you took out your mortgage before 2 October 1995, the Department for Work and Pensions (DWP) will not pay anything towards your mortgage costs for the first 8 weeks. They can pay up to half of your mortgage interest for the next 18 weeks and all of it thereafter if you are still unemployed.**

**For mortgages taken out after 2nd October 1995 you will receive no help for the first 39 weeks, after which they will pay your mortgage interest in full. The DWP will only pay interest payments for the actual purchase of your home, up to a maximum of the first £100,000 of your mortgage and at a rate determined by the government based on the Bank of England base rate. This maximum may be exceeded if any extra was used to adapt your home for someone with a disability. No interest will be paid on additional finance for other purposes, such as business loans.**

## INSOLVENCY

Insolvency is the general term for inability to pay debts due to lack of cash. It also has technical meanings in certain contexts described below. How it affects you depends on your status, (see section below for definitions of legal status). If you are a sole trader, or a partner the section on bankruptcy will apply to you. If you are a director of a company, look at the section on winding up, liquidation, administration and receivership. However, if you have signed a personal guarantee you should also look at the section on bankruptcy as it may also apply to you.

## BANKRUPTCY

Sequestration is the technical Scots Law term for bankruptcy. The term is about to change and for simplicity; we will refer to it as bankruptcy here. Winding up is the name given to the process, which ends with a liquidator being appointed to a company.

A creditor can ask the court to sequester your estates (that is, make you bankrupt), or wind up your company if it owes the money. You or your company are then termed 'insolvent' and the company will be described as being 'in liquidation.'

Creditors can issue bankruptcy petitions for debts of £1500 or more. However, if a creditor is owed less than that amount, if they can find another creditor to whom you also owe

money the two creditors can jointly petition for your bankruptcy if the debt you owed to the two creditors is £1500 or more.

Before a creditor can lodge a bankruptcy petition, a creditor must also demonstrate that you have become *apparently insolvent* in the last four months.

### The most common grounds for apparent insolvency are:

- A creditor has unsuccessfully attempted to enforce a court decree against you by serving a charge for payment on you but the days allowed for payment have expired without payment
- A creditor has served a notice on you in the required statutory form giving 21 days for payment and this period has expired without payment known as a statutory demand
- A creditor has obtained a summary warrant (see the sections on business rates, council tax etc.) and your assets have been subject to an attachment or an exceptional attachment order and 14 days have elapsed without payment.

A copy of the creditor's petition for your bankruptcy will be served on you by sheriff officers. You will receive your copy of the petition at least 6 days before the court hearing. You will be asked to attend the court on a stated date to say why you should not be made bankrupt.

If you want to dispute the bankruptcy proceedings, you or a representative should attend court to explain why you should not be made bankrupt. The only grounds would be where you have made payment already or make it (including expenses) in court.

If you cannot persuade the court that you should not be made bankrupt, the court will order sequestration and you will be made bankrupt.

If you are declared bankrupt, the court will appoint an insolvency practitioner or the accountant in bankruptcy as your trustee in sequestration to realise your assets and pay your creditors.

The trustee will also be able to claim a share of any income earned after the date of sequestration. Sequestration lasts for 3 years unless a trustee or a creditor asks the court to extend it.

### If you are declared bankrupt, you cannot:

- Act as a director or promote, form or manage a company except with leave of the court
- Hold certain public offices, practise as a solicitor or act as an insolvency practitioner.

You cannot obtain credit, including goods hired under a hire purchase agreement to the value of £250 or more, without revealing that you are bankrupt. If you do you will be guilty of an offence punishable by imprisonment and/or a fine.

**If you receive a statutory demand, phone us for advice. You must act within 18 days if you want to make an application to the court.**

You may be able to negotiate payments with the creditor to avoid bankruptcy. Creditors or collection agencies will sometimes issue a statutory demand to get you to pay up if they feel that you are holding back payment for whatever reason or you have assets they can get hold of to repay the debt. They sometimes issue them with no intention to make you bankrupt, as it is a cheap way to scare you in to paying.

If you have no assets and are on a low income, tell them now. They may consider it not worth going to the expense of making you bankrupt if they have nothing to gain. Send them your business and household budget sheet and list of priority and secondary creditors so that they can see the full extent of your debts. They may decide to accept a monthly payment after all rather than forcing you out of business if they have nothing to gain.

**However, always treat a statutory demand seriously and don't leave the matter until it is too late to deal with.**

### The bankruptcy petition

You may lodge your own bankruptcy petition; the fee for this can be as little as £63. If you are claiming certain benefits or on a low income, you may qualify for advice and assistance from a solicitor who can help you with the petition and pay the court fee. Bankruptcy is dealt with in the same way whether you present your own petition or are made bankrupt by a creditor.

### Assets

Once you are bankrupt, the appointed trustee may wish to sell any assets that you have. Certain goods are not treated as assets such as:

- Clothing, bedding, furniture and household equipment and provisions as are necessary for satisfying the basic domestic needs of the bankrupt and their family
- Such tools, books, vehicles and other items of equipment necessary for the bankrupt to carry on with employment.



#### IMPORTANT

If an asset such as a car is essential for work you may be able to keep it. However, if it is of considerable value it may be sold requiring you to replace it with a cheaper one.

If you own property then this may be sold depending on whether it has equity (value) in it. Once you have gone bankrupt the interest in your home is transferred to the trustee. If you are the sole owner then the whole of the value of the property is transferred. With jointly owned property, the trustee is only entitled to the bankrupt's share of the equity.

It may be possible for the joint owner, a member of the family or friend to buy out your interest in the property. This could be particularly advantageous where there is little or no equity as this could be for a nominal amount.

- You are unlikely to be able to hold a business bank account, but may be able to obtain a basic personal account. A list of these is available on the Financial Services Authority's website [www.fsa.gov.uk](http://www.fsa.gov.uk).
- You will have to make arrangements with fuel companies and your phone company for the future supply of services. In effect this means you will have to pay a deposit for future supplies, have a meter installed, or transfer the bills to someone else in your household who is prepared to take responsibility for them.

#### However:

- You will obtain an automatic discharge after 3 years. This is as long as you co-operate with the trustee whilst bankrupt. In certain circumstances discharge from the bankruptcy can be deferred for 2 years and on application for a further 2 years where the trustee or a creditor can persuade the court that you have not co-operated in some way e.g. failed to disclose assets
- With the trustee in bankruptcy's agreement, you can continue to trade as long as it is practical to do so without using credit. You may be able to keep the tools of your trade and an essential vehicle
- You can continue to pay your mortgage, but will also need to pay any other debts which are secured on your home
- If another person can raise sufficient money to pay your trustee your share of the equity in your house, you need not lose your home.

If you are considering bankruptcy **please phone us for advice.**

For a fact sheet on  
**BANKRUPTCY**  
please phone us on 0800 197 6026



## TRUST DEED FOR CREDITORS

### Trust deeds

There is an alternative to sequestration i.e. formal bankruptcy called a trust deed. This is a formal arrangement with your creditors through the sheriff court to pay an agreed amount off your debts. The insolvency practitioner will prepare a proposal to the creditors. This can be very flexible and may be for payments out of income for up to five years, as well as/instead of a lump sum payment. The rest is written off. The proposal will usually contain a clause that if you do not keep to the arrangement, the supervisor (who is the insolvency practitioner) has a duty to apply for bankruptcy and has the right to reserve part of any money paid for this purpose. If a majority of creditors, or a third of the creditors by value fail to object within 5 weeks of its advertisement in the Edinburgh Gazette, it becomes a protected trust deed and has the authority of the courts. In these circumstances, creditors cannot pursue a debt whilst this is in place. You will need to contact an insolvency practitioner to supervise the arrangement.

The money you can raise will have to be enough to pay their fees, as well as pay the creditors. However, if you can show that the creditors will get at least as much as they would if you were bankrupt; a trust deed stands a good chance of success.

For a fact sheet on  
**TRUST DEEDS FOR CREDITORS**  
please phone us on 0800 197 6026



## WINDING UP A COMPANY, LIQUIDATION, ADMINISTRATION AND RECEIVERSHIP

If your company cannot pay its creditors, it runs the risk of creditors taking action on the grounds of insolvency. Depending on the circumstances, this will involve creditors using either:

- A petition to wind up the company, or
- An administration order, or
- The appointment of a receiver.

### Winding up a company and liquidation

This will commence when a letter is issued demanding payment of the debt within 7 days or when sheriff officers serve a demand at the registered office of the company. Failure to pay in response to such a letter or demand requesting payment is usually sufficient evidence to enable a creditor to prove to the satisfaction of the court that a company is unable to pay its debts as they fall due – the test of insolvency for a company.

The winding-up petition has to be advertised in the Edinburgh Gazette (published by the Stationery Office and containing various statutory notices and advertisements) and in a local newspaper. At the same time as this public notice is arranged, a copy of the petition has to be sent recorded delivery to your company's registered office. The company has 8 days after service of the petition to lodge answers i.e. explain to the court in writing what its defence is.

If you are defending the case, your company must be legally represented in court. If you don't defend it, or the court doesn't accept your defence, the court will order that your company is wound up and a liquidator will be appointed.

The liquidator will manage the affairs of the company in place of you and the other directors. The liquidator has a duty to realise company's assets to pay its debts. Any money left over after debts plus expenses of the liquidation are paid will be distributed among the shareholders. When all assets have been used up, the company is dissolved and ceases to exist.

### Administration order

This is a court order made to appoint an administrator to manage the company's affairs. A court can make an administration order when the company is, or is likely to become, unable to pay its debts and the court considers that the making of an administration order could achieve one of following purposes i.e.

- Save the whole or any part of the company as a going concern, or
- Approve a company voluntary arrangement (see below), or
- Agree to a compromise or arrangement (see below), or
- Get a better price for the company's assets than in a winding-up.

One or more of your creditors can apply to court for such an order. While an administration order is in force, the company cannot be wound up. There are restrictions on creditors enforcing any security over the company's property, selling any goods and starting any legal proceedings. For these reasons, it is often worth the directors applying for such an order themselves – see below.

The administrator will advertise the order in the Edinburgh Gazette and in a newspaper in the area where the company has its principal place of business. The administrator takes control of all the property of the company. He or she will then draw up proposals and call a meeting of the creditors to consider those proposals. If the majority of creditors approve the proposals, the administrator then manages the affairs, business and property of the company.

## Receivership

If your company has granted a floating charge over the assets of the company as a security for a loan, (commonly a bank loan) and the company defaults on the loan, the creditor can appoint a receiver. A receiver has the power to sell or otherwise realise the assets of the company secured against the loan in an attempt to repay the debt owed to the charge-holder.

## OTHER OPTIONS FOR COMPANIES

### Turnaround and informal arrangements

Corrective action such as company and capital restructuring, reducing costs, concentrating on core products, sale of part of the business, and increasing financial control can help towards making a company profitable. Informal arrangements can then be made with creditors to pay the debts off. The business budget in this pack can help you with this approach.

### Company voluntary arrangements

Similar to a trust deed for sole traders (see page 40), this is a formal arrangement between the company and its creditors to settle its debts.

### Voluntary liquidation

If a limited company is insolvent, it is the responsibility of the directors to cease trading.

In a **creditors' voluntary liquidation** the directors pass a resolution to wind the company up. A creditors' meeting is held to nominate the appointment of a liquidator and consider a statement of affairs.

Within six months of a company being put into liquidation, the insolvency practitioner has a duty to report to the Department of Trade and Industry (DTI) on the conduct of any director of an insolvent company who has been a director within three years from the date of insolvency. This could lead to prosecution and disqualification if the insolvency practitioner finds that there has been wrongdoing or fraudulent trading on the part of the directors.

### Striking off/dissolution

A private limited company (Ltd) may apply to be struck off the companies register if in the previous three months it has not traded or otherwise carried on business.

Application may be made using form 652a supplied by Companies House (see page 48).

**This is only a brief summary. Phone us if you require more details.**

**Business Debtline has noticed that there is a lot of confusion with regards to what it means to be either a sole trader, partnership or limited company.**

**We have therefore prepared these very brief notes but if you require further advice, phone us.**

## SOLE TRADER

This is where it is just you in business on your own. Your business bills, business bank account statements, invoices, letterheads and other business correspondence have just your name on them. You are personally liable for all business debts, which are legally treated no different to your personal debts. Just because you trade as a business name, doesn't mean to say that you can separate yourself from the business debts.

For a fact sheet on  
**SOLE TRADERSHIPS**  
please phone us on 0800 197 6026



## PARTNERSHIPS

Partners are jointly and severally liable for all business debts. This means that all partners can be pursued for the total debt; it is not possible to divide it into partners' shares. If creditors cannot obtain payment of a debt from one partner, they will seek payment in full from the others. However, for income tax purposes, partners are taxable only on their share of the business's profit.

There is no legal requirement for a written partnership agreement, though you may consider it desirable to have one. Otherwise, all that is required is that your name appears on the business notepaper as a partner. So if you do dissolve the partnership, make sure that all of the existing creditors know that you will not be responsible for debts incurred after the partnership is dissolved and that your name no longer appears on business notepaper. Keep copies of the letters.

If you have given a personal guarantee or a legal charge to a bank as security for the business debts, make sure that the bank accepts you are only responsible for any debt incurred before the partnership is dissolved.

If one partner goes bankrupt, although the debt will be written off for that partner, creditors can still pursue the remaining partners (or former partners) for the whole debt. In effect, what this means is that partners with most assets have the most to lose.

If one partner has had to pay a partnership debt they have the right to sue other partners for their share of the debts.

For a fact sheet on  
**PARTNERSHIPS**  
please phone us on 0800 197 6026



## LIMITED COMPANIES

A limited company is a separate legal entity from its directors and shareholders.

A company is deemed to be insolvent when it is unable to pay its debts either as they fall due or where the value of its assets is less than the amounts of its liabilities including contingent and prospective liabilities. Assets will include your stock, fixtures and fittings and could include money that you are owed or work you have in hand. In addition, contingent and prospective liabilities include money you will owe in the future.

Directors owe a duty of care to the company, its shareholders, employees and where there is doubt as to its insolvency, its creditors.

Generally a director (or someone acting as a director) is not personally liable for the company's debts. However you can be personally liable for the following:

- Your own personal PAYE and NI deductions which are unpaid
- Any unpaid income tax arising where you have taken cash drawings from the company
- Any personal guarantees given on behalf of the company, most commonly to banks, finance companies, landlords and occasionally major trade creditors
- Any liability arising as a result of trading whilst insolvent prior to the company ceasing trading and/or being put into liquidation. This is known as **'wrongful trading'**
- Any liability where you have benefited from a transaction at an undervalue and/or preference
- Any liability resulting from fraudulent trading.

You will therefore need to be very careful when you are trading if there is any doubt as to the solvency of the company. If you are in any doubt about this, **phone us for advice.**

For a fact sheet on  
**LIMITED COMPANIES**  
please phone us on 0800 197 6026



## ACCOUNTANTS, SOLICITORS AND OTHER ADVISERS

If you have an accountant, solicitor or other professional adviser, then we recommend that you speak to them before you make any major decision about the future of your business.

Obviously they are commercial businesses, but if you have had an ongoing relationship with them, they may still give you some professional advice without charge (or a small charge). You may be eligible for legal help and help at court (this used to be known as legal aid). Ask the solicitor.

### What if my accountant refuses to give me back my books?

If you have not paid your accountant, then he or she may refuse to give your books back to you until the bill is paid. This is known as a lien.

Essentially, the accountant has the right to keep the books upon which work has been carried out, and for which some or all of his fees have not been paid. He/she should not be keeping books for which there is no debt due on the work done. A lien is not enforceable in bankruptcy or in liquidation situations.

You should contact your accountant and explain that you are unable to pay, and that the return of your books will help you put together some repayment proposals, which should result in a better offer to the accountant than would otherwise be. This is particularly where there are income tax or VAT assessments to be dealt with, which could result in refunds.

You could take legal action to recover your books, but it is important that you get a professional opinion from a solicitor.

### Fee disputes

If you are in a fee dispute with your professional adviser, then you should ask for a detailed breakdown of the amount. You should pay the amount you feel you owe (if any) and put in writing the reasons that you disagree with the remainder.

Where you cannot come to a settlement, then you may wish to contact the appropriate professional body (e.g. the Institute of Chartered Accountants or the Law Society of Scotland), who have procedures for resolving such disputes.

**At the centre of this pack is a pull-out draft business and household budget sheet. Use this as you work through the pack to help you assess the viability of your business and allow you to prioritise your debts and calculate offers to your creditors.**

**Pages 45, 46 and 47 are master copies for you to transfer the figures from your draft budget sheet. This can be copied and sent to your creditors.**

**You can also use it to help support applications for benefits or you can send it to creditors in support of offers being made.**

**Page 47 covers your assets and savings. You will not normally need to send this with your offers, but it can help in some negotiations, particularly when dealing with court proceedings. It will also help you complete your overall picture of the situation.**

**It is important that all applicable sections are completed; otherwise you will not be able to deal with the whole situation effectively.**

**If you are operating as a limited company, then you should keep the business budget separate from that for your household. You should still complete the household budget as it may allow you to reduce the salary level you are drawing from the company in order to keep it solvent and increase its ability to pay creditors. It is particularly important to complete and use both budgets where there are personal guarantees.**

**If you have problems working out your business and household budget, or any other questions, phone us for advice.**

**THIS IS YOUR MASTER COPY**

**MONTHLY BUSINESS BUDGET  
- YOUR MASTER COPY**

<b>STAGE 1 - INCOME</b>	<b>£</b>
Receipts for 3 months	_____
<b>Average Receipts per Month (A)</b>	_____
<b>STAGE 2 - COSTS</b>	<b>£</b>
Stock purchases	_____
Rent	_____
Business rates	_____
Loan repayment	_____
Bank interest	_____
Bank charges	_____
Wages/PAYE/Nat ins	_____
Water charges	_____
Gas	_____
Electricity	_____
Insurance	_____
Transport/motor costs	_____
Stationery	_____
Postage	_____
Cleaning/repairs	_____
Telephone	_____
VAT	_____
Accountant/professional fees	_____
Other	_____
<b>TOTAL COSTS (B)</b>	_____
<b>STAGE 3 - DRAWINGS</b>	<b>£</b>
<b>Income Less Costs (A) - (B)</b>	_____
<b>LESS:</b>	_____
Estimated income tax	_____
National insurance class 4	_____
National insurance class 2	_____
<b>Total Available for Drawings</b>	_____

**MONTHLY HOUSEHOLD BUDGET  
- YOUR MASTER COPY**

<b>STAGE 4 - HOUSEHOLD INCOME</b>	<b>£</b>
Drawings from business	_____
Salary (partner)	_____
Income support	_____
Jobseeker's allowance	_____
Child benefit	_____
Tax credits	_____
Non-dependants	_____
Pension	_____
Other benefits	_____
Other income	_____
<b>Total Income (C)</b>	_____
<b>STAGE 5 - OUTGOINGS</b>	<b>£</b>
1st mortgage/rent	_____
2nd mortgage	_____
Endowment/life insurance	_____
House insurance	_____
Council tax/water	_____
Water (if separate)	_____
Gas	_____
Electricity	_____
Household expenses	_____
Telephone	_____
Court fines	_____
TV licence & rental	_____
Travel expenses	_____
Hire purchase	_____
Clothing	_____
Pension contributions	_____
Maintenance	_____
Health costs	_____
Other	_____
<b>Total Outgoings (D)</b>	_____
<b>STAGE 6 MONEY FOR CREDITORS</b>	<b>£</b>
<b>Available for Creditors (C) - (D)</b>	_____



**Remember this section is for you to use to gain a clear perspective of the situation your business is in. You do not necessarily have to show this to creditors unless it will assist you with negotiations or court proceedings.**

**ASSETS AND SAVINGS**

<b>BANK ACCOUNTS AND SAVINGS</b>	<b>Credit Amounts £</b>	<b>Overdrawn Amounts £</b>
Business current account	_____	_____
Personal current account	_____	_____
Other bank accounts	_____	_____
Building society accounts	_____	_____
National Savings	_____	_____
Premium Bonds	_____	_____
Shares/PEPs/ISAs etc.	_____	_____
<b>Total</b>	_____	_____

<b>OTHER ASSETS</b>	<b>Secured £</b>	<b>Estimate Value £</b>	<b>Mortgage/Loan Outstanding £</b>	<b>Net Equity £</b>
Business assets	_____	_____	_____	_____
Business property	_____	_____	_____	_____
Business vehicles	_____	_____	_____	_____
Business equipment	_____	_____	_____	_____
Business stock	_____	_____	_____	_____
Business debtors	_____	_____	_____	_____
Personal assets	_____	_____	_____	_____
House/main residence	_____	_____	_____	_____
Other property	_____	_____	_____	_____
Private vehicles	_____	_____	_____	_____
Other assets	_____	_____	_____	_____
<b>Total</b>	_____	_____	_____	_____

# PLACES FOR HELP AND ADVICE

Many of these are head office addresses which should be able to give you the address of a local office. You can also usually check their website for details.

**Accountant In Bankruptcy** Tel: 0845 762 6171  
PO Box 8313, (Scottish insolvency service)  
Irvine, KA12 2AA [www.aib.gov.uk](http://www.aib.gov.uk)

**adviceUK** Tel: 0207 407 4070  
12th Floor, New London Bridge House, [www.adviceuk.org.uk](http://www.adviceuk.org.uk)  
25 London Bridge Street,  
London, SE1 9SG

**Age Concern** Tel: 0800 00 99 66  
Freepost (SWB 303752), (for a range of factsheets)  
Ashburton, [www.ace.org.uk](http://www.ace.org.uk)  
Devon, TQ13 7ZZ

**ChildLine** Tel: 0800 1111  
Freepost 1111, [www.childline.org.uk](http://www.childline.org.uk)  
London, NI 0BR

**Communities Scotland** Tel: 0131 313 0044  
(For a list of housing associations) [www.communitiesscotland.gov.uk](http://www.communitiesscotland.gov.uk)

**Companies House** Tel: 0870 333 3636  
Crown Way, [www.companieshouse.gov.uk](http://www.companieshouse.gov.uk)  
Maindy,  
Cardiff, CF14 3UZ

**Consumer Direct** Tel: 0845 404 0506  
(For help with consumer [www.consumerdirect.gov.uk](http://www.consumerdirect.gov.uk)  
problems)

**Council of Mortgage Lenders** Tel: 0207 437 0075  
3 Saville Row, Fact sheet line: 0207 440 2255  
London, W1S 3PB [www.cml.org.uk](http://www.cml.org.uk)

**Cruse** Tel: 0870 167 1677  
(Advice and support for [www.crusebereavementcare.org.uk](http://www.crusebereavementcare.org.uk)  
bereaved families)  
126 Sheen Road,  
Richmond,  
Surrey, TW9 1UR

**DIAL UK** Tel: 01302 310 123  
(Helpline offering advice for [www.dialuk.org.uk](http://www.dialuk.org.uk)  
people with disabilities)  
St Catherine's House Hopice,  
Tickhill Road,  
Doncaster, DN4 8QN

**Disability Rights Commission** Tel: 0845 7622 633  
Freepost MID 02164, [www.drc-gb.org](http://www.drc-gb.org)  
Stratford-upon-Avon, CV37 9BR

**Drinkline** Tel: 0800 917 8282

## Department for Work and Pensions (DWP)

**Carer's Allowance Unit** Tel: 0125 385 6123

**Child Support Agency Enquiry Line** Tel: 0845 7133 133  
[www.csa.gov.uk](http://www.csa.gov.uk)

**Disability Benefits Enquiry Line** Tel: 0800 88 22 00  
[www.dwp.gov.uk](http://www.dwp.gov.uk)

**Disability Living Allowance & Attendance Allowance Helpline** Tel: 0845 712 3456

**New Deal** Tel: 0845 606 2626  
[www.newdeal.gov.uk](http://www.newdeal.gov.uk)

**New Deal for Lone Parents** Tel: 0800 868 868  
[www.newdeal.gov.uk](http://www.newdeal.gov.uk)

**Pension Credit Claim Line** Tel: 0800 99 1234  
[www.thepensionsservice.gov.uk](http://www.thepensionsservice.gov.uk)

**Tax Credits Helpline** Tel: 0845 300 3900  
[www.hmrc.gov.uk](http://www.hmrc.gov.uk)

**Veterans Agency Freeline** Tel: 0800 169 2277  
[www.veteransagency.mod.uk](http://www.veteransagency.mod.uk)

**Winter Fuel Payments Helpline** Tel: 0845 915 1515  
[www.thepensionsservice.gov.uk/winterfuel](http://www.thepensionsservice.gov.uk/winterfuel)

**Energywatch** Tel: 0845 906 0708  
(For fuel complaints and to [www.energywatch.org.uk](http://www.energywatch.org.uk)  
compare fuel prices)  
4th Floor, Artillery House,  
Artillery Row, London, SW1P 1RT

**Federation of Small Businesses** Tel: 01253 336000  
Whittle Way, [www.fsb.org.uk](http://www.fsb.org.uk)  
Blackpool Business Park,  
Blackpool,  
Lancashire, FY4 2FE

**Financial Services Authority (FSA)** Tel: 0845 606 1234  
(Advice on endowments/pensions etc) [www.fsa.gov.uk](http://www.fsa.gov.uk)  
Consumer Helpline,  
25 The North Colonnade,  
Canary Wharf,  
London, E14 5HS

**Financial Services Compensation Scheme** Tel: 0207 892 7300  
[www.fscs.org.uk](http://www.fscs.org.uk)  
7th Floor, Lloyds Chambers,  
1 Portsoken Street,  
London, E1 8BN

**Financial Ombudsman Service** Tel: 0845 080 1800  
(For complaints about [www.financial-ombudsman.org.uk](http://www.financial-ombudsman.org.uk)  
banks, building societies, insurance,  
investments, endowments and pensions)  
South Quay Plaza,  
183 Marsh Wall,  
London, E14 9SR

**Gamblers Anonymous** Tel: 08700 50 88 80  
PO Box 88, [www.gamblersanonymous.org.uk](http://www.gamblersanonymous.org.uk)  
London, SW10 0EU

**Gamcare** Tel: 0845 600 0133  
(Advice on gambling issues) [www.gamcare.org.uk](http://www.gamcare.org.uk)  
2/3 Baden Place, Crosby Row,  
London, SE1 1YW

**Help the Aged**  
207-221 Pentonville Road,  
London, N1 9UZ  
**Tel: 0808 800 6565**  
[www.helptheaged.org.uk](http://www.helptheaged.org.uk)

**IFA Promotions Office**  
(For a list of independent  
financial advisers)  
**Tel: 0800 0853 250**  
[www.unbiased.co.uk](http://www.unbiased.co.uk)

**Information Commissioner**  
(For data protection issues) [www.informationcommissioner.gov.uk](http://www.informationcommissioner.gov.uk)  
Wycliffe House, Water Lane,  
Wilmslow,  
Cheshire, SK9 5AF  
**Tel: 01625 545 700**

**Law Society of Scotland**  
(On issues affecting small businesses)  
26 Drumsheugh Gardens,  
Edinburgh, EH3 7YR  
**Tel: 0131 226 7411**  
[www.lawscof.org.uk](http://www.lawscof.org.uk)

**Local Government Ombudsman**  
21 Queen Anne's Gate,  
London, SW1H 9BU  
**Tel: 0845 602 1983**  
[www.lgo.org.uk](http://www.lgo.org.uk)

**National Debtline**  
(Helpline for people with  
personal debt problems)  
**Tel: 0808 808 4000**  
[www.nationaldebtline.co.uk](http://www.nationaldebtline.co.uk)

**Office of Communications (OFCOM)**  
Riverside House,  
2A Southwark Bridge Road,  
London, SE1 9HA  
**Tel: 0845 456 3000**  
[www.ofcom.org.uk](http://www.ofcom.org.uk)

**Office of Fair Trading (OFT)**  
Fleetbank House,  
2-6 Salisbury Square,  
London, EC4Y 8JX  
**Tel: 0845 722 4499**  
[www.oft.gov.uk](http://www.oft.gov.uk)

**Office of Gas and Electricity  
Markets (OFGEM)**  
2nd Floor, Regent Court,  
70 West Regent Street,  
Glasgow, G2 2QZ  
**Tel: 0845 906 0708**  
[www.ofgem.gov.uk](http://www.ofgem.gov.uk)

**Office of Telecommunication  
Ombudsman Service (OTELO)**  
OTELO, PO Box 730,  
Warrington,  
Cheshire, WA4 6WU  
**Tel: 0845 050 1614**  
[www.otelo.org.uk](http://www.otelo.org.uk)

**Parliamentary Ombudsman**  
(Investigates complaints about  
government departments. Ask your MP)  
Millbank Tower, Millbank,  
London, SW1P 4QP  
7 Regional offices – check phone book  
**Tel: 0845 015 4033**  
[www.ombudsman.org.uk](http://www.ombudsman.org.uk)

**Relate**  
**Tel: 0845 130 40 16**  
[www.relate.org.uk](http://www.relate.org.uk)

**Samaritans**  
**Tel: 0845 790 9090**  
[www.samaritans.org.uk](http://www.samaritans.org.uk)

**Saneline**  
(Support for mental illness)  
**Tel: 0845 767 8000**  
[www.sane.org.uk](http://www.sane.org.uk)

**Shelter Scotland**  
**Tel: 0808 800 4444**  
[www.shelter.org.uk](http://www.shelter.org.uk)

**Small Business Service**  
(On issues affecting small businesses)  
Kingsgate House,  
66/74 Victoria Street,  
London, SW1E 6SW  
**Tel: 0845 001 0031**  
[www.sbs.gov.uk](http://www.sbs.gov.uk)

**TaxAid**  
Room 304, Linton House,  
164-180 Union Street,  
London, SE1 0LH  
**Tel: 0845 120 3779**  
[www.taxaid.org.uk](http://www.taxaid.org.uk)

**Telephone Helplines Association**  
(Provides information on helplines)  
**Tel: 0845 120 3767**

**Trading Standards**  
(To complain to your local  
trading standards online)  
[www.consumercomplaints.org.uk](http://www.consumercomplaints.org.uk)

**TV Licensing**  
Bristol, BS98 1TL  
**Tel: 0870 241 6468**  
[www.tvlicensing.co.uk](http://www.tvlicensing.co.uk)

**Water Industry Commission  
for Scotland**  
Ochil House,  
Springkerse Business Park,  
Stirling, FK7 7XE  
**Tel: 01786 430200**  
[www.watercommissioner.co.uk](http://www.watercommissioner.co.uk)

## YOU WILL ALSO FIND THE FOLLOWING SERVICES LISTED IN THE PHONE BOOK

**Citizens Advice Bureaux:** Offering impartial and confidential advice on issues such as debt, money problems and welfare benefits. Most bureaux have trained advice workers who can help with budgeting, negotiate with creditors etc. [www.adviceguide.org.uk](http://www.adviceguide.org.uk) and [www.citizensadvice.org.uk](http://www.citizensadvice.org.uk)

**Department for Work and Pensions/social security offices:** Find your local office to claim most benefits.

**Job Centre Plus:** Find your local office to claim most benefits if you are unemployed.

**Law centres:** They offer legal advice on housing benefits etc.

**Local council:** Provides a range of services. Contact your council to claim housing benefit and council tax benefit or make a housing application.

**Trading Standards Departments (consumer protection departments):** Part of your local council. Contact them to complain about harassment.

# MORE ABOUT US

## BACKGROUND

**Business Debtline (BDL)** is part of the **Money Advice Trust (MAT)**, a charity formed in 1991 to increase the quality and availability of free, independent money advice in the UK. **We work in partnership with government, the private sector and the UK's leading money advice agencies to:**

- Increase the availability of money advice
- Improve its quality
- Improve the efficiency and effectiveness of its delivery.

**MAT is recognised by both the government and private sector as a leading organisation promoting free, independent money advice. There are four key aspects to MAT's work:**

- 1 Advice provision via National Debtline and Business Debtline
- 2 Ensuring high quality money advice through training and support for advisers
- 3 Fundraising
- 4 A catalyst for improving efficiency and effectiveness within the debt advice sector.

To ensure that a high standard of service is maintained, all BDL advisers receive an intensive induction and training programme when they join the service.

## BUSINESS DEBTLINE: OUR AIMS AND SERVICES

**Business Debtline aims to provide a high quality service. You can expect:**

- The attention of approachable advisers who are trained to a high standard
- A guarantee that any information you give about your situation will be kept strictly confidential. Records of our calls are kept on a database. This means if you need to contact us again you don't have to tell us about your situation all over again. Your details are not passed on to any other organisation without your permission. We do ask your permission to be contacted by a third party research organisation, but only for the purpose of a telephone or written questionnaire on the quality of our service.

However, you do not have to tell us anything, such as your name and address if you would prefer not to, you can remain completely anonymous. Please contact us if you do not want us to keep your details on file. If we do not hear from you we will take it that you agree to us doing so

- **Prompt attention.** Although our lines are very busy we will do all we can to answer your call promptly
- **Non-discriminatory practice.** Business Debtline is committed to equality in all its services and will tackle prejudice and discrimination to ensure this.

If you are not satisfied with the service you receive, contact the Business Debtline Team Leader. Please remember our lines can be extremely busy and you may have difficulty getting through to an adviser.

If you wish to make a complaint or have any ideas on how to improve our services, please write to:

Team Leader  
Business Debtline  
Tricorn House  
51-53 Hagley Road  
Edgbaston  
Birmingham B16 8TP

We have a complaints procedure and guarantee your complaint will be given full consideration.

## FUNDERS

The Money Advice Trust would like to thank the following funders for their generosity in supporting BDL:

- Abbey Business
- Alliance and Leicester Commercial Bank
- Bank of Scotland
- Barclays
- British Bankers' Association
- Clydesdale Bank
- HSBC
- Lloyds TSB Business Banking
- NatWest
- DTI Small Business Service
- The Co-operative Bank
- The Royal Bank of Scotland
- Yorkshire Bank.

**Freephone 0800 197 6026**

**Monday to Friday during business hours**

**Business Debtline**

**Tricorn House**

**51-53 Hagley Road**

**Edgbaston**

**Birmingham B16 8TP**

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**Price:** Free to individuals; there is a charge to agencies.

Whilst we endeavour to keep our information packs and fact sheets as up-to-date as possible, Business Debtline cannot be held responsible for changes in legislation or for developments in caselaw since this edition was issued.

Business Debtline is part of the Money Advice Trust.

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**www.bdl.org.uk**

**SCOTLAND**



**Money  
Advice  
Trust**